

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the
Southern District of Illinois

PATRICK A. BYERS, JR.

Petitioner

v.

D. SPROUL, WARDEN

*Respondent**(name of warden or authorized person having custody of petitioner)*

Case No.

22-369-JPG
(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Patrick Albert Byers, Jr.
(b) Other names you have used: Pat
2. Place of confinement:
(a) Name of institution: USP Marion
(b) Address: 4500 Prison Road
Marion, Illinois 62959
(c) Your identification number: 43310-037
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain:
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☒ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: UNITED STATES DISTRICT COURT
BALTIMORE, MD
(b) Docket number of criminal case: 1:08-CR-00056-RDB
(c) Date of sentencing: May 4, 2009
☐ Being held on an immigration charge
☒ Other (explain): Held on a conviction from the District Court in
Baltimore, MD

Decision or Action You Are Challenging

5. What are you challenging in this petition:
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**Instructions**

1. **Who Should Use This Form.** You should use this form if
 - you are a federal prisoner and you wish to challenge the way your sentence is being carried out (*for example, you claim that the Bureau of Prisons miscalculated your sentence or failed to properly award good time credits*);
 - you are in federal or state custody because of something other than a judgment of conviction (*for example, you are in pretrial detention or are awaiting extradition*); or
 - you are alleging that you are illegally detained in immigration custody.
2. **Who Should Not Use This Form.** You should not use this form if
 - you are challenging the validity of a federal judgment of conviction and sentence (*these challenges are generally raised in a motion under 28 U.S.C. § 2255*);
 - you are challenging the validity of a state judgment of conviction and sentence (*these challenges are generally raised in a petition under 28 U.S.C. § 2254*); or
 - you are challenging a final order of removal in an immigration case (*these challenges are generally raised in a petition for review directly with a United States Court of Appeals*).
3. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. **A false statement may lead to prosecution.**
4. **Answer all the questions.** You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit any legal arguments, you must submit them in a separate memorandum. Be aware that any such memorandum may be subject to page limits set forth in the local rules of the court where you file this petition. If you attach additional pages, number the pages and identify which section of the petition is being continued. All filings must be submitted on paper sized 8½ by 11 inches. **Do not use the back of any page.**
5. **Supporting Documents.** In addition to your petition, you must send to the court a copy of the decisions you are challenging and a copy of any briefs or administrative remedy forms filed in your case.
6. **Required Filing Fee.** You must include the \$5 filing fee required by 28 U.S.C. § 1914(a). If you are unable to pay the filing fee, you must ask the court for permission to proceed in forma pauperis – that is, as a person who cannot pay the filing fee – by submitting the documents that the court requires.
7. **Submitting Documents to the Court.** Mail your petition and _____ copies to the clerk of the United States District Court for the district and division in which you are confined. For a list of districts and divisions, see 28 U.S.C. §§ 81-131. All copies must be identical to the original. Copies may be legibly handwritten.

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.
8. **Change of Address.** You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.

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- ☐ Pretrial detention
☐ Immigration detention
☐ Detainer
☒ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☒ Other (explain): Actual Innocence Claim and Wrongful Conviction Claim for charge 18 USC § 1512

6. Provide more information about the decision or action you are challenging:

- (a) Name and location of the agency or court: I am challenging my conviction from the District Court in Baltimore, Maryland
 (b) Docket number, case number, or opinion number: 1:08-CR-00056-RDB
 (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
I am challenging the fact that I am ACTUALLY and FACTUALLY INNOCENT of the crime of 18 USC § 1512 "Murder of Government Witness"
 (d) Date of the decision or action: April 17, 2009

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☒ No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: N/A
 (2) Date of filing: N/A
 (3) Docket number, case number, or opinion number: N/A
 (4) Result: N/A
 (5) Date of result: N/A
 (6) Issues raised: N/A

(b) If you answered "No," explain why you did not appeal: My conviction for all counts was appealed and the § 1512 issue was not raised.

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☒ No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: N/A(2) Date of filing: N/A(3) Docket number, case number, or opinion number: N/A(4) Result: N/A(5) Date of result: N/A(6) Issues raised: N/A(b) If you answered "No," explain why you did not file a second appeal: My Appeal Attorney failed to file for certiorari**9. Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes ☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: N/A(2) Date of filing: N/A(3) Docket number, case number, or opinion number: N/A(4) Result: N/A(5) Date of result: N/A(6) Issues raised: N/A(b) If you answered "No," explain why you did not file a third appeal: Appeal Attorney waited and the Statute of Limitations expired**10. Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☒ Yes ☐ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☒ Yes ☐ No

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If "Yes," provide:

- (1) Name of court: United States District Court Baltimore, MD.
 (2) Case number: RDB-12-2348
 (3) Date of filing: August 7, 2012
 (4) Result: Motion Denied
 (5) Date of result: September 16, 2015
 (6) Issues raised: Ineffective Assistance of Counsel for failure to Investigate and secure records. Ineffective Assistance for failing to secure records and footage from News Broadcast

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☒ Yes☐ No

If "Yes," provide:

- (1) Name of court: United States Court Of Appeals for the Fourth Circuit
 (2) Case number: Cannot Locate
 (3) Date of filing: 2018
 (4) Result: Denied without reason
 (5) Date of result: 2019
 (6) Issues raised: Use of False Testimony, Testimony by crooked Police Sergeant and Lack of Evidence

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: I am time barred from filing a § 2255. I am now, raising the issue of ACTUAL and FACTUAL INNOCENCE OF all charges and § 2241 is proper vehicle for such claim(s)

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☐ Yes☒ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: N/A
 (b) Date of the removal or reinstatement order: N/A
 (c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes☐ No

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If "Yes," provide:

- (1) Date of filing: N/A
- (2) Case number: N/A
- (3) Result: N/A
- (4) Date of result: N/A
- (5) Issues raised: N/A

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes ☐ No

If "Yes," provide:

- (1) Name of court: N/A
- (2) Date of filing: N/A
- (3) Case number: N/A
- (4) Result: N/A
- (5) Date of result: N/A
- (6) Issues raised: N/A

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☒ Yes ☐ No

If "Yes," provide:

(a) Kind of petition, motion, or application: Actual innocence 2241 claim(b) Name of the authority, agency, or court: United States District Court, S.D. Illinois(c) Date of filing: June 2019(d) Docket number, case number, or opinion number: N/A (Don't know)(e) Result: Pending decision(f) Date of result: N/A(g) Issues raised: Supreme Court Rehaif decision, felon in possession

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: Actual Innocence of 18 USC § 1512 "Murder of Government Witness" where EVIDENCE proved there was no federal government interest for probable cause against "BYERS"

- see Memoranda

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

From the underlying murder case of Larry Haynes, Carl S. Lackl was not a government witness which goes to the heart of the united states of America's Case against "BYERS." Additionally. There was no investigatory involvement via federal agencies, suchas, DEA, ATF or FBI, For any federal interest in/on event(s) against "BYERS."

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes

☒ No

GROUND TWO: Actual Innocence of 18 USC § 1512 "Murder of Government Witness" where there was no federal nexus to connect "BYERS" to events surrounding crimes

- see Memoranda

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

Like in many other prominent court rulings EVIDENCE exhibit in/on "BYERS" there was no federal investigation ongoing to garner federal charge. "BYERS" is prejudiced by a prosecution lacking evidence of it.

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☒ No

GROUND THREE: Actual Innocence of 18 USC § 1512 "Murder of Government Witness" for Incapacity to Commit crimes, alleged
- see Momoranda

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

Concerning Mr. Carl Stanley Lackl, who wasn't a government witness, when he was killed. At that time "BYERS" was arrested and in detention as of 3/2006. Allegedly, Mr. Lackl was murdered, appx. 7/2/2007

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☒ No

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GROUND FOUR: Actual Innocence of 18 USC § 1512 "Murder of Government Witness" due to TRUTH surfacing about alleged crime(s)
- see Memoranda and Exhibits

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

All the above restated for cause with the attachment of Exhibits illustrating material EVIDENCE of my factual and actual innocence and, now, some of this EVIDENCE is written in a published book; it means, that the proof, can no longer be overlooked or passed-over.

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☒ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: I am not *learned in* the law; needing assistance to identify claim(s) and requiring assistance to present cause(s), so that I may be heard.

Request for Relief

15. State exactly what you want the court to do: *My entire conviction should be over turned and i be granted a new trial. It is not on me to prove the elements of a violation of 18 USC § 1512(a)(1)(A) it is the governments responsibility. The government has not, And cannot prove that Mr. Carl Lackl was a government witness. My conviction shall not rest on the fact that i am innocent. I am not guilty of the murder of a government witness.*

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Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

November 23, 2021

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date:

11-23-21

Patrick Byers

Signature of Petitioner

Signature of Attorney or other authorized person, if any

Beyers

4330-037

In the United States District Court
for the Southern District of Illinois

PATRICK A. BYERS, Jr.,
Petitioner

v.

UNITED STATES OF AMERICA
Respondent

--> Case No.

Memorandum In Support of
Motion under 28 USC § 2241

Petitioner, comes on this Memorandum in support of his Motion filed under 28 USC § 2241 to demonstrate Claim for ACTUAL INNOCENCE. Whereas issues revolve around, turn of events EVIDENCING the government (i.e. United States, United States of America, Respondent) committing crimes, resulting in a complete sea change.

Sea Change (e.g. turn of events) does not permit the Respondent to be found committing crimes, then, being able to have standing to bring a matter into court centered around same events of the prosecution(s).

Hereby. Petitioner asserts, he can demonstrate; (1) Actual Innocence, (2) Government's lack of EVIDENCE for 18 USC § 1512 charge and (3) Attorneys' failure to share data/files rising to SOCHA Claim, requiring court intervention to secure relief for defects in/on institutions for prosecution(s).

Some back ground facts. Petitioner plead not guilty to all charges listed in the original indictment and the superseding indictment, then proceeded to trial in 2009. In April, a jury returned a verdict of guilty and he was sentenced to four life terms of imprisonment on, May 4, 2009.

The Guilty verdict was based, solely, on the Government's hype man, known as a star witness; Police Srgt. Wayne E. Jenkins for City of Baltimore Gun Task Force. Jenkins, was, subsequently, sentenced to 25 years in Federal Prison. Charges against Jenkins are inclusive of Falsely Detaining, Stealing, False (i.e. Faking) Police Reports among other charges. Surprisingly, The Assistant United States Attorney who prosecuted Petitioner, retired soon, after, Srgt. Jenkins was indicted, reallizing case on "BYERS" was compromised.

Petitioner, earnestly, maintains his innocence, from the start

of his criminal proceedings. Once, 'Byers,' became aware of the fact, the Government's star witness was Police Sergeant Wayne E. Jenkins, he immediately advised his lawyer that Jenkins was a dirty COP, who collected payments from drug dealers in return for protection and information. Petitioner, reported, Jenkins was involved in other illegal activity(s) that he was aware of. Court Appointed Attorney failed to investigate accusations or blow the Whistle on Jenkin's illegal activities. A more detailed search, disclosed Jenkins with others, sorta like a gang did "jump-outs" on people (joe-public) with their guns drawn. This EVIDENCE is extraneous, however, is relevant for cause.

Shockingly. Jenkins and his partners criminal conduct was, so, overwhelming and grip-ping, two Authors wrote a book about their activities. Baynard Woods and Brandon Soderberg authored "I Got A Monster" as its title and "The rise and fall of America's most corrupt police squad" as its subtext for their book.

Now. What this meas for EVIDENCE, of/on, 'Byers'' claim(s) for INNOCENCE, is that, EVIDENCE on his claim(s) is not, only, registered, the EVIDENCE, is copyrighted and authenticated as PUBLIC knowledge, as actual verifiable fact(s).

Attorneys have information and knowledge that "BYERS" wasn't the person committing crimes as alleged. Cf. 'Byers' victim of over zealous prosecution. Yet. Attorneys, prosecuted him, anyway. Id. FATAL DEFECTS.

Federal Question. Can a crooked COP's testimony keep a man in prison for life? Jenkins lied, under Oath, and he was convicted, sentenced to 25 years for executing crimes that gained him a life in Federal Prison. His crimes are linked to my being convicted and sentenced. Again. Facts, in deed, compromise(s) case against "BYERS."

Amazingly. Even, intrinsic EVIDENCE has changed, in favor of "BYERS'" immediate RELEASE. This is the governments' EVIDENCE being removed, by recant. For example; Marcus Pearson, who witnessed, previously, on behalf of the governments' claim that "BYERS" orchestrated the murder of "LACKL" for charge on 18 USC § 1512 violation, now recants his statement which in essence, burst the proverbial bubble to any claim(s) the government can hold over "BYERS." So. At this point; "What is supporting the government's claim(s) against "BYERS"? Re: "nothing!"

Incidentally. T'was Marcus' third time coming forth to report evidence of his facts. And, this time, he spoke to a local news paper "Baltimore Sun Reporter," Justin Fenton, in Sept., 2020. Again. Evidence shines light on 'Byers' innocence, claim(s)

Extraordinary Circumstance(s) exist. These circumstance(s) make for extreme prejudice; worsened by the fact that for an alleged murder charged to Petitioner, his trial lawyer claimed he lost the AFFIDAVITS of, those, witnessess who did affirm and testify asto who the shooter was. Now; this wasn't one person, this was many people. Id. Lack of care for duty and highly, exemplary, of Ineffective Assistance of Counsel.

Therefore. Those prosecuting case, had no business ignoring Petitioner's facts and proof of CLAIMS of INNOCENCE! Section 2241 is a proper vehicle to raise 'ACTUAL' INNOCENCE Claim. See Boose v. Marske, 2019 U.S.Dist.Lexis 156342 (7th Cir. 2019). Petitioner is, also, hopeful by Supreme Court Ruling in case, McQuiggin v. Perkins, 133 S.Ct. 1924; and, the reliance in/on decision can be RETROACTIVELY accepted and applied by its terms.

Mandatory Notice; Take "Public Notice, as Mandatory" of fact, there, is/was seemingly, some sort of slant (could be hate or otherwise) against 'Byers.' Whereas, Baltimore City Police was allowed means to craft EVIDENCE in/on "BYERS." Then, on the other hand, the Executive Branch of Government (i.e. Agencies, attorneys, prosecuting attorneys) were providing protection, even, looking the other-way while FACTS in/on "BYERS" were being molded, edited and manipulated, to create their federal cause. Collectively. They were able to invent a federal employee to, allegedly, garner charge 18 USC § 1512(C)(1)(A) on "BYERS." Now, absent EVIDENCE, the prosecution's Claim avers "BYERS" murdered their government witness, Carl Stanley Lackl.

Severe, problematic issues persist with prosecution of the 18 USC § 1512 charge. For one, Lackl wasn't a government employee (i.e. witness) to satisfy the prongs of the statute and two; in order to satisfy terms of the contract (i.e. statute) government's facts force "BYERS'" conduct, in order to be congruent, to rely on too many "WHAT-IFs" to satisfy the charge. Id. Fowler, 563 U.S. 668, 131 S.Ct. 2045 and Synder, 865 F.3d 490, 2017 U.S.App.-LEXIS 13402. By all the above, 'Byers' should have had a fair hearing, with EFFECTIVE ASSISTANCE of counsel to not only safeguard his INNOCENCE, but protect it as well. Yet, what occurred with counsel assistance is befitting, only, of a horror movie, here.

Unless, you were forced to deal with all the political obstacles, maneuvers, hurdles and alike, you probably can't appreciate the experience(s) being described.

Then, when 'Byers' attempted to gain help and assistance through counsel; they (multiple attorneys) employed savy and ill-will to operate around their position of care, moving with callousness, no matter how traumatic the occurrences.

The accolades of the judges and attorneys handling transactions building the RECORD are, absolutely, horrific! Institutions of justice were, in deed, closed-off to 'Byers' by those occupying positions of TRUST in/on behalf of the, then, DEFENDANT. A debt is due/owed to 'Byers.' By the example: Look at what happened after trial with dealing with attorney assistance per Appeal.

The Appeal attorney expresses to 'Byers' ". . . the appeal is a slow moving process." (See Aug. 12, 2009 letter by Marta K. Kahn, Esq.) is ever, a reason, to grant "BYERS" relief. Here. The implication is that an APPEAL can't be taken, immediately, after a trial, which in legal terms, is an OUTRIGHT farce!

When 'Byers' made attempt to Appeal the shenanigans of, seemingly, outrageous prosecutorial executions; the attorneys refused to share the files with him. Id. Direct prejudice.

SOCHA CLAIM. If 'Byers' was not allowed to have access to the files and information; the prejudice, is apparent. 'Byers' could not and have not been able to draft any meaningful motions, memorandas or briefs without access to the basic files underlying actions of government's charges.

'Byers' ("BYERS") is not a layman of the law. Even, with court papers; he (it) would, still, require assistance to challenge those defects of the institution meted against him (it) by the attorneys and others. In SOCHA, he did receive his court papers. Todate. 'Byers' has not received any papers requested from attorneys which would allow him to create instruments having merit to effect APPEAL. Hurdles, before 'Byers' are more than, INSURMOUNTABLE. court, can not fault "BYERS" via Principal-Agent Doctrine, for its own interference with attorney-client relationship, evinced by Kahn letter. by all precocious events, 'Byers' should be releaved of all association with contract(s) and derivative transactions associated with cause, forthwith. See "SOCHA v. Boughton, 763 F.3d 674 (7th Cir. 2014)."

Again. Time to submit claim of "actual INNOCENCE" is protected by "MCQUIGGIN v. PERKINS (2013).

CONCLUSION

Petitioner, 'Patrick Albert Byers' is actually innocent. Any statements relied upon by the Government's hype man (i.e. star witness) (now Inmate) former Police Sergeant Wayne E. Jenkins shall not be used to uphold the conviction in/on this case. The wiles of Dirty Cop Jenkins have been made known, inclusive of falsifying police reports. Strike his testimony and "BYERS" would have to be, immediately, released. - If there was a case of actual "INNOCENCE," this would be one of them.

Whereas counsel for DEFENSE did allow counsel for plaintiff (United States of America, Inc.) to charge "BYERS" with a set of taxable accounts absent verified EVIDENCE for their conviction, a valid CONVICTION has not been ascertained and a challenge has been proffered. ~~Save covin, collusion and conspiracy events~~ could have never made it to a federal court.

REQUEST FOR RELIEF

Declare that SOCHA is a 7th Circuit Presedenct and that "BYERS" has demonstrated like circumstance(s) to illustrate D. SPROUL, Warden, at USP Marion and the United States of America, is in fact, holding him (it) in violation of U.S. Constitution of U.S. Statutes. Whereby, 'Byeres' demand an order of the court upon the U.s. Marshal Service to deliver him (it) to the community-at-large near Baltimore Maryland or demand order of "REmand" with instruction to have case vacated; or, alternatively, with instruction to hold a fair hearing, allowing him to prove his INNOCENCE.

Patrick Byers

See Exhibits to support claims

Exhibit

These letters are to and/or from former Attorneys William B. Purpura, Marta K. Kahn and Marc G. Hall. These letters are of me repeatedly asking Mr. Purpura and Ms. Kahn for my discovery/files to my case only to be ignored or told that i am not allowed to have my files. The other letters are of me asking Mr. Hall for certain information pertaining to my case file, only to have my letters ignored, And tell me via Attorney phone call that he does not have my discovery only Trial transcripts. Mr. Hall however did respond in ~~form~~ the form of a letter to my request to raise the issue that Carl Lackl was not a government witness and that the government did not have jurisdiction. Mr. Hall Sent me a letter dated (July 14, 2010) Stating that he didn't think the jurisdiction was an issue, How wrong was he.

Also, The first and last page of the "Motion for Discovery" filed on March 21, 2016. Which was denied.

I have been writing the court - "Judge. Richard D. Bennett, The government and the federal public Defenders office Since 2017. Not a single response from none of them, Records, Docket/Pacer proves these letters. I can only believe that there are REASONS NO ONE WANTS ME to have my discovery/files because of the proof of innocence.

I have repeatedly ask the courts to appoint council, Denied and as for my recent letters to the courts asking again to appoint council, Ignored.

Patrick Byers

REQUEST TO STAFF

M. BAYLESS (UNIT MANAGER)

20 JUNE, CE 2014

PATRICK BYERS

43310037

PLEASE PROVIDE A COPY OF MY LEGAL MAIL
ENVELOPE THAT WAS SENT TO!

WILLIAM B. PURPURA
ATTORNEY AT LAW
EIGHT E. MULBERRY ST.
BALTIMORE, MD 21202

ON APRIL 26, 2014,

THANK YOU FOR YOUR KIND & PROMPT ATTENTION
TO THIS MATTER.

Attached

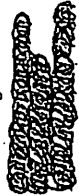
-MBayless

623-14



Patrick Byers
Name
43310087

Reg. No.



Federal Correctional Institution
P.O. Box 33
Terre Haute, IN 47808



Legal Mail

INMATE
IDENTIFICATION
CONTAINER

047808A

43310-037

William B. Purpura
Attorney At Law
Eight E Mulberry ST
Baltimore, MD 21202
United States

Patrick Albert Byers, Jr.
Reg. No. 43310-037
P.O. Box 33
Terre Haute, TN 47808

April 25, 2014

William B. Purpura, Jr.
Law Offices of William B. Purpura
Eight E. Mulberry St.
Baltimore, MD 21202

Re: Discovery

Dear Mr. Purpura,

I am currently deeply involved in my collateral attack. It is vitally important for me to equip myself with all the knowledge about my trial and appeal. In reviewing the enclosed letter from your associate it is required that I have a copy of this "discovery agreement" before I can proceed. Was this agreement expressed, implied, or verbal? Who were the parties and how and when was my consent applied?

Further I am copying you on my letter to the prosecution and ask only that you will place a curtesy call in follow-up to make sure that it was received and that action is being taken on my behalf.

Thank you for your kind attention.

Sincerely,

Patrick A. Byers

Bcc:

Patrick Byers
Reg#43310-037
USI Terre Haute
P.O. Box 33
Terre Haute, IN 47808

September 12, 2011

Mr. William Purpura
Attorney At Law
8 East Mulberry Street
Baltimore MD, 21205

RE: United States v. Byers, Cr No. RDB 08-056

Dear Mr. Purpura:

I was denied my direct appeal this past May, I am writing for the purpose of obtaining my discovery. I was informed by Mr. Hahn that you all would forward my files to new counsel if I had obtained one. The few times that I spoke with said counsel, and asked for copies of the Coleman, Haynes and Lackl discovery. He said he didn't posses any discovery materials, just transcripts. So if you will, can you please figure out how to get me copies of my discovery, there is very important information in my discovery, ~~there~~I need for the beginning for my 2255 petition.

13/ Patrick Byers

**The Law Office of
Marta K. Kahn, LLC**

PO Box 65071

Baltimore, MD 21209

~~410-299-6966~~ ~~mkkahn@yahoo.com~~

Fax: 443-927-7216

October 26, 2009

Patrick Albert Byers, Jr.
Inmate Number 43310-037
FCI Terre Haute
Federal Correctional Institution
PO Box 33
Terre Haute, IN 47808

Dear Mr. Byers,

I am in receipt of your letter of October 14, 2009. Although you refer to it as your third request for materials pertaining to your case, this is the first letter I have ever received from you at any time, on any subject.

As I told you in my previous letter to you, and as I have told your mother and your aunt twice each on the phone, we do not have the transcripts in your case. The transcripts do not simply appear at the close of your trial. They need to be prepared by the court reporters. We make a request that they do so at the time we file the notice of appeal. We made that request. After that, the court reporters answer directly to the Fourth Circuit, not to us. Their deadlines for preparing the transcripts are set by the court, not by us, and as I have explained to you and your family, this can take many months. The court will not set a deadline to file the opening brief in your appeal until the transcripts are completed.

As I have also explained to your mother and your aunt, I do not have the page numbers for the transcripts. I have, however, as a courtesy to you and your family, attempted to get this information from the court reporters prior to their completion of the transcripts, but I have not been successful.

The discovery agreement in your case does not permit you to have a copy of the discovery in your possession. If you obtain new counsel, we will forward any necessary files to that person, when that person notifies the Fourth Circuit that they are acting as counsel, and we are released

The Law Office of
Marta K. Kahn, LLC

7 East Franklin Street
Second Floor
Baltimore, MD 21202

tel: 410-299-6966
fax: 443-927-7216
mkkahn@yahoo.com

January 25, 2009

Patrick Albert Byers, Jr.
Inmate Number 43310-037
FCI Terre Haute
Federal Correctional Institution
PO Box 33
Terre Haute, IN 47808

Dear Mr. Byers:

Having received your motion to substitute counsel due to your desire to raise claims of ineffective assistance of counsel on direct appeal, we filed a Motion to Withdraw, which was granted by the Fourth Circuit. A copy of the order appointing new counsel is enclosed. I will ensure that your new lawyer receives the portion of the transcript that I have in my office. Best of luck to you

Sincerely,



Marta K. Kahn

Enclosures

cc: William B. Purpura

**The Law Office of
Marta K. Kahn, LLC**

PO Box 65071

Baltimore, MD 21209

410-299-6966 mkkahn@yahoo.com

Fax: 443-927-7216

August 12, 2009

Patrick Albert Byers, Jr.
Inmate Number 43310-037
FCI Terre Haute
Federal Correctional Institution
PO Box 33
Terre Haute, IN 47808

Dear Patrick:


I understand that you recently sent Bill Purpura a letter in which you expressed disappointment that we had not been in better contact with you and that it was your intention to retain other counsel.

First, for the lack of communication, I apologize. I thought that you had understood that the appeal is a slow moving process. That has nothing to do with anything we are or are not doing. The pace is by and large out of our control. In fact, all we have been ordered by the court to do at this point is file a docketing statement, which we have done. The docketing statement is nothing more than a very basic description of the issues we might raise (we can always change these later) and a directive to the court reporters to prepare the transcripts. Thus all we are doing right now is waiting for the transcripts to come, at which point, we will begin re-reviewing the issues. As I explained before, the issues for us to choose from on appeal basically include any motions, requests, or objections we made that the court denied. I would expect that chief among these would be our effort to get the Coleman shooting excluded from evidence. Obviously, our plan has always been to consult with you thoroughly once the drafting of the brief is actually underway.

Second, as we discussed before you left Baltimore, you are more than welcome to retain counsel. I have already told you that in my opinion, it is not necessary for you and your family to undertake the financial burden this would require, but have also told you it is your absolute right to proceed that way. This new lawyer, however, must officially enter an appearance in the Fourth Circuit. Until then, we remain your counsel and will continue whatever preparations of your appeal are necessary.

You are, and have always been, welcome to contact me by mail or by phone as listed above. Take good care, Patrick.

Sincerely,



Marta K. Kahn

cc: William B. Purpura, Esq.

Patrick Byers
Reg. No. 43310-037
FCI Terre Haute
P.O. Box 33
Terre Haute, IN 47808

August 3, 2009

Mr. William Purpura
Attorney at Law
8 East Mulberry Street
Baltimore, Maryland 21205

RE: United States v. Byers, Cr. No. RDB 08-056
Appeal

Dear Mr. Purpura:

As you probably gather, I am in the process of preparing for the appeal of my conviction to the Fourth Circuit Court of Appeals. I have decided to obtain different counsel for this action.

While I have heard nothing from you since my trial wrapped up in April of this year -- despite my repeated letters to you -- it has reached me that you filed a notice of appeal. I certainly hope you have done so. At any rate, I kindly request that you send me a copy of the notice of appeal and any other motions you may have filed in connection with that notice, as well as anything you have received from the district or appellate courts in response to your filing. I specifically request a copy of any request for transcripts.

Finally, I repeat my request that you send me a copy of the Haynes and Lackl files. I trust that you will have no difficulty doing so.

Thank you for your cooperation with this request.

Sincerely,

Patrick Byers

CC: Clerk, United States Court of Appeals for the Fourth Circuit

Patrick Byers
c/o FCI/CMU Terre Haute
PO Box 33 (43310-037)
Terre Haute, IN 47808

20 August 2009

The Law Office of
Marta K. Kahn, LLC
PO Box 65071
Baltimore, MD 21209

N O T I C E

RE: UNITED STATES v. PATRICK ALBERT BYERS, JR., ON APPEAL

Ms. Kahn:

I understand from your letter of 12 August 2009 that Mr. Purpura is in possession of at least one of my three recent letters. In particular you respond to what you say is my expression of disappointment in the lack of timely communications regarding direct appeal. I don't recall making any such expression at all and my cc show none. On the contrary, that wasn't my concern. My request, as NOTICED here, was for your office to provide without any abridgment of any kind whatsoever: (1) HAYNES discovery; (2) LACKL discovery; (3) COLEMAN discovery; and (4) copies of all entries your firm filed at anytime in the proceedings, all notes and records on file in my case(s), in court and/or in your office, all to be returned to me here in ordinary course of business: timely and complete. I further claim for carbon copies of all documentation regardless of how insignificant as is sent or received in the case(s) as long as your firm is on record or receives anything re this matter.

In interest of an even better understanding, in support of our pursuit of authentic justice, I'm sharing herein a listing of directives to Mr. Purpura that he has ignored, stultified, or undermined in some obvious way(s). His continuous shortfalls have undermined my innocence [which you, Ms. Kahn implied is merely my product of a state of denial] and now largely if not entirely the cause for my necessary efforts to secure justice from an even more difficult situation unloaded upon me by that dump-truck-- lawyer performance throughout the pre-trial and trial phases of the process.

LISTING OF SHORTFALLS

I. I asked Mr. Purpura to secure photographs of the JI dorm where I was housed in the Baltimore City Jail system. I asked him to secure photo records of the telephone area; kitchen area; TV room; showers; and dorm. This would evince that: (1) my property was not secure; (2) that I could not see my property to protect it when in other areas; and (3) theft of HAYNES discovery was easily facilitated. He agreed, and then did nothing.

II. I asked Mr. Purpura to secure the "text-message" records for 30 June thru 2 July 2007 for entry as alibi evidence in my defense and he simply lied. He told me they were not available, and he

NOTICE-Purpura

page 1 of 4

could not get them. Yet, Frank Goodman's attorney simply secured his records. (" . . . they don't keep them . . . they aren't available." [Purpura])

III. I asked Mr. Purpura to secure the records of the cell phones seized in JI dorm during my custody there to show: (1) I was never caught with a cell phone while in JI dorm; (2) that record shows that many people in JI dorm were making telephone contact with many people. For me to use a cell phone would not [as US Attorney was able to characterize it] unique, and not evidence of any wrong doing. Though he said he was going to secure those records, I never saw them and he never presented them in my defense, though the U.S. Attorney called several witnesses to get their admission that they had spoken to me, as the prosecution presented that as evidence that I could have called Marcus Pearson.

IV. I asked Mr. Purpura to secure the video records of the news broadcast on local television after 2 July 2007 through up into the trial period. This information would show that Pearson's story was fabricated from what he had seen on the TV news. Mr. Purpura told me, "Don't worry I'll get that." He never got that crucial information which could well have impeached Marcus Pearson's entire perjured testimony.

V. I asked Mr. Purpura to secure the bull-pen videos from the period while we were in jury selection phase. It recorded Marcus Pearson admitting the truth. He could be seen saying, "Ya, I set 'em up, but I'm gonna go in there and tell the truth. Then when Pat goes home, I'm gonna make sure he gets killed." The videos show Goodman, and others. The others were witnesses and wanted to testify as to Pearson's admissions. Mr. Purpura said, "You can't get tapes; they don't record there." And refused to secure the tapes. The tapes that would have affirmatively impeached the entire Pearson fabrication, discharged the entire case as presented by the U.S. Attorney. I would have been justly acquitted.

VI. T-NETIX phone systems provider at the Baltimore City Jail, had a control expert called by the U.S. Attorney to testify that I only used the telephone from the jail March 2006 thru April 2006 to imply that I was dodging the telephone security system. I told Mr. Purpura to secure my grandmother's telephone records as they would verify that In Fact I had been calling her a great deal as her bill would certify. He ignored my request on this crucial evidence, leaving the jury convinced that I was circumventing the telephone security.

VII. I affirmed to Mr. Purpura the names of a family member and two close friends who had suffered an attempt on their lives by Marcus Person who shot two and had his close friend shoot the other. He appeared to take note of this, but never followed up nor did he call them in the effort to impeach Marcus Pearson's account fabricating what never happened.

VIII. I affirmed to Mr. Purpura that Marcus Pearson had directed the "BLOODS" to stab Frank Goodman at the city jail in 2006. A corrections officer, and eyewitness to events, with credibility was willing to testify as to those facts. Mr. Purpura ignored this valuable exculpatory evidence which would have provided additional evidence to impeach Marcus Pearson's fabricated story.

IX. I told Mr. Purpura that Jamar Saunders and Tracy Love were willing to testify that the U.S. Attorney had solicited their perjury testimony to be used against me. Jamar was offered the reversal of a 15 year sentence, and Tracy was offered an undisclosed benefit for such testimony, that the U.S. Attorney knew was perjury. Further, I informed Mr. Purpura that Jamar was also ~~willing to testify to his ownership of the cell phone in MAS was~~ his and not mine. Mr. Purpura refused to pursue this particular exculpatory evidence, further prejudicing my defense and leaving the jury without the essential evidence that would secure my just acquittal.

I - IX are all prejudices that compromised my defense in LACKL. The list continues with the improprieties in the HAYNES case.

X. In HAYNES, I asked Mr. Purpura to secure my telephone records for 4 March 2006, the day of the HAYNES murder. Darrell Briggs was with HAYNES when he was attacked and shot. He ran away in fear from the scene and called me to tell me what had happened. I received the call while at the car-wash with my girl friend. This and her witness clearly would prove that I was not HAYNES killer. Mr. Purpura did not follow-up on this Firm alibi evidence which would affirm that I am innocent of the HAYNES murder.

XI. I asked Mr. Purpura to secure a back ground investigation report on detective Jenkins. What basis of credible standing he had to question or testify as to my character. He wrote it down, but never returned with a report.

XII. I entrusted Mr. Purpura with information as to HAYNES murderer, QUINTIN HOGAN (deceased) and told Mr. Purpura that the DNA tests of the gun would verify that HOGAN had handled the gun that had been used to murder HAYNES. Later at a motions hearing the U.S. Attorney brought the DNA up. It was implied that he gave Mr. Purpura the DNA information that I had given him. (Strongly indicated to me Mr. Purpura went to U.S. Attorney with my tip.)

X - XII are all prejudices to my defense in HAYNES, and contribute further prejudices in LACKL.

CONCLUDING

In the COLEMAN matter, if anyone had simply looked at the discovery they would have seen he was shot in front of the house, outside, as the shell casings were found in the front of the house, not in the kitchen where he alleged as he perjured testimony he had been shot by me. Under more serious pressure of the evidence COLEMAN would have admitted he had been told what to lie about. I wrote down details sure to impeach the COLEMAN perjured testimony, but Mr. Purpura refused to acknowledge or use my inside, detailed, exculpatory information.

Though Mr. Purpura agreed we needed expert witnesses: (1) eyewitnesses; (2) telephone; (3) DNA; (4) video, he never arranged for nor called any of them.

The sound array of witnesses that we agreed upon were impeachment authorities in COLEMAN, HAYNES and LACKL, Mr. Purpura refused to

call all but two of the over ten witnesses. Without revealing to me, he failed to subpoena them, and then just as we were to present our defense he told me he was not going to call most of them with exception of Darrell Briggs (who he failed to ask the crucial questions) and my cousin, Vonda Cole who had been at the courthouse with me when the COLEMAN assault occurred.

~~I still remain confused by the incident before trial, where I~~
met with [you] Ms. Kahn and Mr. Belrezo and I asked why they had told the prosecutor about details of my defense. In your answer I would like your clear explanation as to how [as explained] you would, by doing so get information out of the prosecution by giving up mine. I still cannot understand that.

The information requested above must include my original indictment and superseding indictment(s).

I present this listed NOTICE postpaid and affixed, U.S. Mail to above addressee. Failure to probate the content by certified return in ordinary course of business (30 days or less) affirms this NOTICE is an accurate representation precept upon precept, line upon line and is, as such bargain of the parties hereto and FIRM in all venues.

Done, NOTICED and PRESENTED this 20 Day of August, 2009.

Aggrieved,
Patrick Albert Byers, Jr.

Patrick Albert Byers Jr.
"good as AVAL"

c.c. File

SPECIAL NOTE

Let us not forget that the record will preserve some of the above i.e., Frank Goodman's counsel disclosed that every e-mail he had received from the U.S. Attorney or sent to them was cc to Frank. Mr. Purpura NEVER made any such disclosures.

Aggrieved, I also recall for your clear understanding, When I told you, while Mr. Purpura and Mr. Belrezo were back picking the jury that I was not nervous [because due to my innocence I was confident that I would be acquitted]; you said, "That's because you are in complete denial, you, and your grandmother." You were either convinced that I was guilty, or you knew something about the defective defense that I was going to trial with, perhaps dirty politics involved and the likelihood of my not receiving a fair trial or some combination of the three.

Patrick Byers
c/o FCI-CMU -- THA
POB 33(43310037)
Terre Haute, IN 47808

13 May 2010

Marc Hall, Esq.
Attorney at Law
200A Monroe Street, Suite 310
Rockville, MD 20850

RE: EXCULPATORY EVIDENCE, NOTICE OF

Dear Mr. Hall,

This notice in support of a successful direct appeal affirms substantive defects in the AUSAs errant scenario, and thus exposes substantive prejudices in the entire trial process, that had they been known to the jury, the miscarriage of justice would never have been possible, and innocents, I and Mr. Goodman would have been acquitted.

Thus, I am requesting the following records be retrieved and that with duplicates in hand, I can assist in utilizing the crucial evidence in them to affirm sound claims on appeal. Records we must have:

- 1) My arrest record, 1st arrest as an adult (2003) complete with names of the officers
- 2) Renardo Robinson's 2005 and 2006 arrest records complete with the names of the officers.
- 3) My court date records of DEC 2005, JAN/FEB 2006, North Avenue Courthouse, complete with 2 pm Docket Time.
- 4) Anthony Conway, JR, his only arrest record complete with officers' names.
- 5) Terrance Whitworth arrest records of DEC 2005 and JAN/FEB 2006 complete with officers' names.

These records will repudiate the perjurous record and affirm the complete lack of fairness and credibility as to the trial of present record. As time is of the essence, I ask that these critical records be secured, duplicated, and I be provided copies so that we can effectively apply the evidence to our appeal.

Please reply with a progress report and time frame we can expect to be using these crucial records within two weeks of your receipt of this notice.

Respectfully directed,

Patrick Byers

c.c. File
Grandmother

Patrick Byers
c/o #43310-037
PO Box 33

Terre Haute, IN 47808

1 March 2010

MARC G. HALL, Attorney at Law
HALL & CHO, PC
200A Monroe Street, Suite 310
Rockville, MD 20850

Re: U.S. v Patrick Byers, Jr.
1:08-cr-56-RDB-1
On Appeal, No. 09-4439

Mr. Hall:

First and most important, I received an e-mail from my aunt today, 28 February and she reported to me that you were supposed to call me here. Her e-mail originated on 17 February. Why would you ask the Case Manager if I could have my transcripts? He is not a party to my case, and OF COURSE I can have a copy!

Why are you wasting time and delaying delivery of a complete copy of my transcripts to me, when In Fact my opening brief is due in May leaving me a short time to verify what had taken place in trial? I do not have absolute recall of everything that took place in trial, and certainly have no insight in the portions at side-bar. My first hand insight is essential to the ends of justice, as the transcript record does not contain critical details. I must be able to provide that insight to assure that my appeal is successful.

If there is some kind of economic hardship involved in you getting me a complete copy of the transcripts, I ask what the costs are. I am directing you to, without any further delay to inform my aunt so that we can take care of that expense and get the transcripts delivered here to me A.S.A.P.!

NEXT: Send me the papers that I sent you. And whenever you send me correspondence be certain that the outside of the envelope is marked "LEGAL/ATTORNEY MAIL - OPEN IN PRESENCE OF PRISONER ONLY!" (all of your mail to me).

If you do not deliver the transcripts to me without further delay or excuse, you are directed to put in an immediate withdrawel of counsel notice.

I do not mean any disrespect by my direct communications but my life is on-the-line and I am paying attention to details. I am not about to tolerate a half-hearted effort while I sit in the dark an end up with a Firm conviction and life sentence in a matter where I am in fact absolutely INNOCENT. I expect results and I pay attention to details.

Its time for absolved effective process and results favorable to me.

Sincerely

c.c.

Patrick Byers

HALL & CHO_{P.C.}
ATTORNEYS AT LAW

Marc G. Hall
mghlaw@mac.com

Jeannie E. Cho
jcho@hallcho.com

July 14, 2010

Patrick Byers, Jr.
Register # 43310-037
FCI TERRE HAUTE
FEDERAL CORRECTIONAL INSTITUTION
P.O. BOX 33
TERRE HAUTE, IN 47808

LEGAL MAIL- CONFIDENTIAL

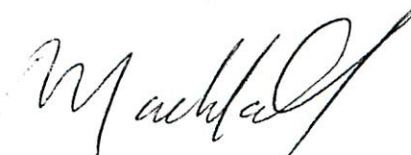
Dear Mr. Byers:

Enclosed please find the initial brief filed in your appeal. The government will be filing a response in approximately 30 days after which we will be filing a reply brief.

After thoroughly researching the jurisdictional issue I concluded that the law simply does not support the claim that the Federal Court lacked jurisdiction. The use of a federally regulated device such as the cell phones clearly gives the government jurisdiction so after much consideration I did not include that issue.

I do think you have a very good issue with regard to the Rule 404(b) evidence and that is the emphasis of the brief.

HALL & CHO, P.C.


Marc G. Hall

MGH: abm
enclosure

The Law Office of
Marta K. Kahn, LLC

7 East Franklin Street
Second Floor
Baltimore, MD 21202

tel: 410-299-6966
fax: 443-927-7216
mkkahn@yahoo.com

November 24, 2009

Patrick Albert Byers, Jr.
Inmate Number 43310-037
FCI Terre Haute
Federal Correctional Institution
PO Box 33
Terre Haute, IN 47808

Dear Mr. Byers:

Enclosed please find copies of your Indictments per your request. The original Indictment was returned on February 5, 2008. The Superseding Indictment was returned on August 5, 2008.

Regarding your transcripts, I have learned that about half of them have been prepared, and I will be picking them up shortly. The second court reporter, who is completing the other half, has just received another extension until December 4, 2009. As I said, these extensions are routinely granted and do not affect the timing of your appeal, as no briefing schedule will be set until the transcripts are complete.

Sincerely,



Marta K. Kahn

Enclosures

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA

:

v.

:

CRIMINAL NO. RDB 08-56

PATRICK BYERS

:

...oOo...

**GOVERNMENT'S MOTION TO DISMISS DEFENDANT'S MOTION FOR
DISCOVERY (ECF 474)**

Now comes the United States of America by its counsel, Rod J. Rosenstein, United States Attorney for the District of Maryland and John F. Purcell, Jr., Assistant United States Attorney for said District, and requests that the court dismiss Defendant's *pro se* Motion for Discovery (ECF 474), as follows:

I. Procedural Background

The Defendant, Patrick Byers, is serving *six* life sentences imposed on May 4, 2009, following his conviction on charges based on the 2007 murder-for-hire of a federal witness, Carl Lackl. ECF 340 (Judgment). The Court of Appeals affirmed Byers's convictions and life sentences on May 6, 2011. ECF 405 (Judgment of the USCA). Byers's various post-conviction challenges to his convictions and life sentences have also failed. They were denied by this court on September 16, 2015. ECF 465. ¹

¹ Byers is also one of over 400 defendants on behalf of whom the Federal Public Defender may present ostensible claims under *Johnson v. United States*, 135 S.Ct. 255 (2015). ECF 470. Of course, Byers's life sentences for Count One-Six do not implicate *Johnson*. As to Counts One and Two, mandatory life sentences were imposed for violations of 18 U.S.C. § 1958 (Counts One and Two, conspiracy and substantive murder-for-hire). As to Counts Three and Four, mandatory life sentences were imposed for violations of 18 U.S.C. § 1512 (conspiracy and witness murder). Similarly, the non-mandatory life sentences imposed for Counts Five and Six were for violations

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 22nd day of March 2016, a copy of the foregoing

Government's Motion to Dismiss Movant's Motion for Discovery was electronically filed with the Clerk of the U.S. District Court for the District of Maryland and that a copy was also mailed to Prisoner Patrick Byers, Prisoner number 43310-037, USP Marion, P.O. BOX 1000, MARION, IL 62959.

/ /
John F. Purcell, Jr.
Assistant United States Attorney

Exhibit # 2

These are 2 articles from ProQuest that i just received from the Internet. These articles Clearly Shows that the government never had jurisdiction and that Mr. Carl Lackl was not a government witness, But rather a States witness.

Also, A copy of my State docket Sheet that i recently received on May 20, 2021 from the State of Maryland in the case of the murder of Larry Haynes. These copies are of pages 1, 8, 9, 10 and 17. There was no assistance from any federal government officer. The officers listed are Baltimore City Police officers. Also, You will notice that Det. Wayne Earl Jenkins name is not present, because he was never a States witness. And the government Knew this information but still chose to solict the false information from Jenkins to say he was a States witness. The State charges were dismissed in April 2008.

Patrick Byers

Back to previous page



document 1 of 1

KILLING OF WITNESS DELAYS MURDER TRIAL: [FINAL Edition]

Bykowicz, J. (2007, Jul 11). KILLING OF WITNESS DELAYS MURDER TRIAL. The Sun Retrieved from <http://search.proquest.com/docview/406165740?accountid=10750>

Abstract (summary)

On [Patrick Byers]' postponement form, city prosecutors checked "state witness unavailable" and wrote in "murdered 7/2/07." The new trial date is Sept. 13. No arrests have been made in Lackl's killing.

Full Text

The first-degree murder trial of Patrick Byers was postponed yesterday, as police investigate a possible link between that city case and the shooting death of its main witness last week in Rosedale.

Byers, 22, is accused in the March 2006 shooting death of Larry Haynes, 30, in East Baltimore. He has been held without bail. Carl Stanley Lackl, 38, witnessed the Haynes shooting and was prepared to testify, city prosecutors said. He was killed July 2 in a drive-by shooting in front of his home in the 8000 block of Philadelphia Road, Baltimore County police said.

On Byers' postponement form, city prosecutors checked "state witness unavailable" and wrote in "murdered 7/2/07." The new trial date is Sept. 13. No arrests have been made in Lackl's killing.

(Copyright 2007 @ The Baltimore Sun Company)

Indexing (details)

People	Byers, Patrick, Haynes, Larry
Title	KILLING OF WITNESS DELAYS MURDER TRIAL: [FINAL Edition]
Author	Bykowicz, Julie
Publication title	The Sun
Pages	3B
Number of pages	0
Publication year	2007
Publication date	Jul 11, 2007
Year	2007
column	CRIME WATCH
Section	Local
Publisher	Tribune Publishing Company LLC

Larry Haynes

Mar 4 2006 2:55PM

Ruling: Homicide

Where Murdered: 2400 block of Jefferson Street

How Murdered: Shot

Age: 30

Sex: M

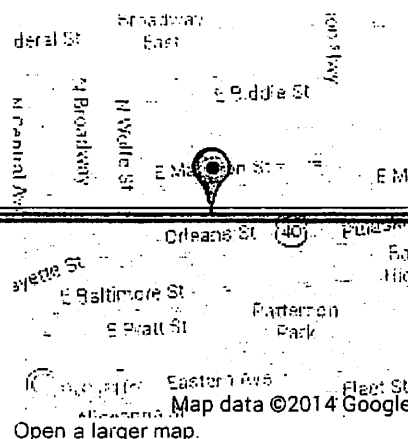
Race: African American

Area: McElderry Park

District: Southeastern

Decision: Charges Dropped

Status: Closed



Select a victim by year.

2014	▼
2013	▼
2012	▼
2011	▼
2010	▼
2009	▼
2008	▼
2007	▼
2006	▼
1900	▼

2:55 p.m. Larry Haynes, a 30-year-old African-American man, was shot repeatedly in the head at the corner of Jefferson Street and Montford Avenue in McElderry Park. Haynes died there. His wife was there when police arrived. On March 20, Patrick Byers, a 20-year-old African-American man, was arrested and charged with Haynes' murder.

Update: The state of Maryland dismissed the murder charges against Patrick Byers, a 23-year-old African-American man, on April 15, 2008. Byers was charged with the March 4, 2006, murder of Larry Haynes, a 30-year-old African-American man. Haynes was shot repeatedly in the head in East Baltimore. According to a statement by Joseph Sviatko, a spokesman for the Baltimore City State's Attorney's Office, the charges were dropped because "[t]he main witness in this case was murdered and the state forfeiture-by-wrongdoing law sets a high threshold for introducing testimony of dead witnesses." Byers is being indicted on federal charges including murder and witness intimidation. According to Sviatko's statement, the "decision was based on the Baltimore City State's Attorney's Office effort to seek the best possible jurisdiction to ensure a successful prosecution." The witness in the case, Carl Lackl, a 38-year-old Caucasian man, was shot to death outside his home in Baltimore County on July 2, 2007. The U.S. Attorney's Office has indicted four people, including Byers, for Lackl's murder. Byers allegedly offered to pay \$2,500 for Lackl's murder. Lackl was killed by people pretending to be interested in buying a car he was selling.

Murder Totals

2014: 75
 2013: 235
 2012: 217
 2011: 197
 2010: 223
 2009: 240
 2008: 234
 2007: 282
 2006: 276
 1900: 4

Send an email if you have more information about this case.

"The hurt my family is left with, it's beyond anything anybody could understand," his mother, Marge Shipley, told the jury. She was in court every day of the weeks-long trial.

Byers' mother showed up only a few times before she was arrested for malicious destruction of property. She was included in the defense category of mitigating factors - those reasons Byers grew from the sweet child shown in a posed photo to a drug dealer in his teen years and a murderer by age 20.

His mother, Karen Cole, has been a drug addict for decades, and Byers' father was a violent criminal who spent a dozen years in prison before teaming up with his 15-year-old son to sell heroin. He had a supportive grandmother, defense lawyers said, but she was overwhelmed caring for 20 grandchildren and still struggling with the reality that all seven of her children had at one time been addicted to drugs; five of them are now dead.

Byers learned about violence and crime at a young age, when it counts most, his attorneys said, bringing in accomplished experts to prove it.

Personality, ethics and world view are shaped by the age of 10, said forensic psychiatrist Dr. David Williamson. The neglect of Byers' East Baltimore neighborhood was "stunning," said Hope Hill, an associate professor of psychology at Howard University. Byers' IQ of 77, on the border of mental retardation, prevents him from thinking rationally like most people, said neuropsychologist Dr. Cynthia Munro.

Defense attorney William Purpura asked the jury to consider compassion in its verdict, to recognize that Byers had the capacity for repentance and that he would never again be a free man, even if he weren't sentenced to death. A life sentence would put him in an 89-square-foot cell with another inmate for the rest of his days.

He would grow vulnerable to the younger prison population with age, and he would die there, unless the jury decides Byers should die, Purpura said.

"Mr. Byers up to this point has been the executioner," countered Assistant U.S. Attorney John F. Purcell.

"I know you're going to be strong," he said to the jury. "All you have to do is think of Carl."

Credit: tricia.bishop@baltsun.com

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Indexing (details)

Subject	Capital punishment; Trials; Mental retardation
Title	JURY DELIBERATIONS BEGIN: DEATH SENTENCE OR LIFE IN JAIL CONTEMPLATED IN WITNESS MURDER
Author	Bishop, Tricia
Publication title	The Baltimore Sun
First page	A.3
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05/04/21 CRIMINAL COURT OF BALTIMORE

CASE INQUIRY 12:18

CASE 106095008

DCM TRACK A DATE 070907

FELONY DRUG INIT

CASE 106095008 STATUS C DATE 041508 PREV ST A 040506 CODEF NO CHANGE 041414

DEF BYERS, PATRICK

ID 961580 SID 002487723 R: B S: M DOB 042285

ADDRESS 505 N LAKEWOOD AVE

BALTIMORE MD 21205

DOA 000000 CMPL 62C02078 PHYS LOC JAL 022606 CASE LOC REL 041508

DOF 040506 TRACK NO 06-1001-10404-3 DIST CASE 4B01756381 WAR 00 CJIS R RI 1

001 000 C USER MUR01 CODE 2 0900

MURDER-FIRST DEGREE

DISP NP

041508

ARREST/CITATION NO 0

SENTENCE	TYPE	DATE	TIME	VERDICT	DATE	BEG	SUSP	PROBATION	TIME	TYPE	COST	FINE	
002	000	C	USER	HGV	CODE	1	5299			HANDGUN: USE IN COMMIT	DISP	NP	041508
ARREST/CITATION NO 0													

SENTENCE	TYPE	DATE	TIME	VERDICT	DATE	BEG	SUSP	PROBATION	TIME	TYPE	COST	FINE	
003	000	C	USER	HGV	CODE	1	5212			HANDGUN ON PERSON: CAR	DISP	NP	041508
ARREST/CITATION NO 0													

SENTENCE	TYPE	DATE	TIME	VERDICT	DATE	BEG	SUSP	PROBATION	TIME	TYPE	COST	FINE

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05/04/21 CRIMINAL COURT OF BALTIMORE

CASE INQUIRY 12:18

CASE 106095008 ST C BYERS, PATRICK

961580 COD N DCM A 070907

EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT

MOTF 032508 S8R DEMAND FOR CHEMIST

FILE 032508 S8R FILED ADF - MEAD, MARGARET , ESQ 545692

HCAL 041508 1 S8T P46;0930;329E;JT ;NP;JUDG; ;PIERSON, W. MIC;8C7

COMM 041508 S8T RELEASE FILED

CCAS 041508 S8T CASE CLOSED - NOLLE PROSEQUI - Q327

COMM 041014 CLN ORDER FOR BODY ATTACHMENT RECALL AND QUASHED

~~COMM 041014 CLN PER JUDGE WELCH.~~

CON FULL NAME/PHONE NUMBER IDENT ADD/FILE STREET/CITY STATE ZIPCODE V/W

ADF BATES, IVAN 43061 092107 201 N CHARLES ST SUITE 1900

410-814-4600 091107 BALTIMORE MD 21201

ADF MEAD, MARGARET 545692 032608 1 N. CHARLES STREET STE 2470

410-727-6400 032508 BALTIMORE MD 21201

ADS ROBINSON, STEPHANIE 699695 082806 1 NORTH CHARLES ST STE 1101

443-438-4032 BALTIMORE MD 21201

ADS WALKER, ROLAND 862038 021307 306 CT SQUARE BLDG

BALTIMORE MD 21202

ASA BANKS, CYNTHIA 37774 050306 120 E BALTIMORE ST #1054

443-984-6205 050206 BALTIMORE MD 21202

ASA HOLBACK, SHARON RUTH 379574 041006 120 E BALTIMORE ST #1024

443-984-6035 040506 BALTIMORE MD 21202

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05/04/21 CRIMINAL COURT OF BALTIMORE

CASE INQUIRY 12:18

CASE 106095008 ST C BYERS, PATRICK

961580 COD N DCM A 070907

CON FULL NAME/PHONE NUMBER

IDENT ADD/FILE STREET/CITY STATE ZIPCODE V/W

WID FERGUSON, MATTHEW

013007 512 N LUZERNE AVE
BALTIMORE MD 21205

WID FERGUSON, WAYNE

013007 2032 E PRESTON ST
BALTIMORE MD 21213

WID HUNT, WELTON

013007 1743 N BOND STREET
BALTIMORE MD 21213~~WID JAMES, SHANICE~~~~013007 10 JENNY LANE~~

BALTIMORE MD 21208

WID JEFFERSON, JOSEPH DET HOMICIDE

013007 601 E FAYETTE ST
BALTIMORE MD 21202

WID PARHAM, JOSEPH

013007 113 N MONTFORD AVE
BALTIMORE MD 21224

WID ROOKSTOOL, CHERYL

013007 1095 ARLINGTON AVE
BALTIMORE MD 21217

WID ROSS, GLENN

013007 509 N MILTON AVE
BALTIMORE MD 21205

WID SANDERS, DONALD

013007 433 N PATTERSON PK AVE
BALTIMORE MD 21213

WID YERBY, GREGORY

013007 1005 HOMEWOOD AVE
BALTIMORE MD 21202

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05/04/21 CRIMINAL COURT OF BALTIMORE

CASE INQUIRY 12:18

CASE 106095008 ST C BYERS, PATRICK

961580 COD N DCM A 070907

CON FULL NAME/PHONE NUMBER

IDENT ADD/FILE STREET/CITY STATE ZIPCODE V/W

WIS HAYNES, TOWANDA

050906 715 NORTH CURLEY ST
BALTIMORE MD 21205

WIS HOGAN, SUSAN DR OCME

041806 111 N PENN ST
BALTIMORE MD 21202

WIS HUNT, WELTON

080206 1743 BONO ST
BALTIMORE MD 21223

WIS JAMES, SHANICE

~~122806 10 TANNY ST~~
BALTIMORE MD 21225

WIS PAIHAM, JOSEPH

080206 113 N. MONTYARD AVE
BALTIMORE MD 21205

WIS REEDY, ED DR OCME

041806 111 N PENN ST
BALTIMORE MD 21202

WIS ROOKSTOOL, CHERYL

080206 1095 ARLINGTON AVE
BALTIMORE MD 21223

WIS YERBY, GREGORY

122806 1005 HOMEWOOD AVE
BALTIMORE MD 21202

★ PO SINGLETON, ANTHONY R

D903 020607 09 - ASSIGNMENT UNKNOWN

★ PO MARTIN, THOMAS J

E437 041006 22 - ASSIGNMENT UNKNOWN

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None of these Baltimore City Police officers are federal officers. Only Det. Thomas J. Martin interview witnesses Joseph Parham and Carl Lackl.

05/04/21 CRIMINAL COURT OF BALTIMORE
CASE 106095008 ST C BYERS, PATRICK

CASE INQUIRY 12:18

961580 COD N DCM A 070907

CON FULL NAME/PHONE NUMBER	IDENT	ADD/FILE	STREET/CITY	STATE	ZIPCODE	V/W
★ PO VENNEY, MARK E	E557	041806	22	-	ASSIGNMENT	UNKNOWN
★ PO BRADSHAW, DONALD V	E948	041806	36	-	ASSIGNMENT	UNKNOWN
★ PO CORRIVEAU, TODD F	G193	041806	22	-	ASSIGNMENT	UNKNOWN
★ PO HOHMAN, STEVEN L	CS35	041806	22	-	ASSIGNMENT	UNKNOWN
★ PO DOBRY, JOSEPH L	H411	041806	37	-	ASSIGNMENT	UNKNOWN
★ POS HAEGNER, TIM OFF		041806	SE			
★ POS PETERS, BILLTECH		041806	LD			
★ POS RIVERA, LISSETTE TECH		041806	LD			

END OF DATA

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Exhibit #3

These are 6 pages of the 2006 Baltimore City Homicide List. There were 216 Shooting deaths, Only 56 of those Shooting deaths charged a suspect. None of those 216 were charged federally.

Murder is not a federal offense, unless there is some kind of federal ~~link~~ nexus, Like, Hobbs Act, Committed multiple related crimes across multiple states, underlying crime involved "Large Scale gang activity and drug trafficking," or federal Task force was investigating defendant's large gang and informants already spoken with federal officers. The federal nexus in my case just do not exist. Even viewing the evidence in light most favorable to the prosecution, There would be no evidence that exist. In the underlying State of Maryland v. Patrick Byers, I was arrested ONLY for felony murder, I was not arrested for DRUGS, NO Gang Activity and no witness gave such a statement. My case is just like U.S. v. Snyder (2017) and Fowler v. U.S. (2011).

Patrick Byers

<http://chamspage.blogspot.com/2013/09/2006-baltimore-city-homicides-list-and.html>

✓ 34	02/08/2006	Lamont Smith	21	1 Goldsmith Alley	Double shooting ,Donte Miller and Michael Park charged	
X 35	02/10/06	Linwood Timmons	48	600 North Franklinton Road	Shooting victim found in home	► 2005 (26)
X 36	02/13/06	Dana Hawks	29	2500 West Baltimore Street	Shooting victim	► 2004 (1)
37	02/13/06	Donald Henderson	23	3000 Thorndale Avenue	Stabbed after altercation, Thomas Morton Jr. charged	STATCOUNTEF
38	02/16/06	Fredericka Mosley	46	200 North Bond Street	Fatally stabbed during a fight,Irvin Mosley sentence to life in prison	
39	02/17/06	Rwane Walker	16	1606 Brand Hill Avenue	Shooting victim Michael Lynn charged	
40	02/18/06	Dorrine Smith	67	2000 Braddish Avenue	Victim of Blunt Force Trauma	
41	a 09/02/01 d11/22/05	George Davis Jr.	28	1800 East Eager Street	Victim of Blunt Force Trauma	
42	s 03/1998 d 09/30/2005	Antoine Ellis	42	2000 Edmondson Avenue	Victim died due to complications from previous gunshot wounds	
43	02/28/06	<u>Donte Bellamy</u>	22	1600 East 25th Street	Double homicide, shooting victim, Chris Ward charged	
44	02/28/06	<u>Duraye Cole</u>	36	1600 East 25th Street	Double homicide, shooting victim Chris Ward charged	
X 45	03/01/06	Milburn Henson	42	1800 Edmondson	Shooting victim	
✓ 46	03/01/06	Joseph Miller	26	3300 Oakfield Avenue	Double shooting, Thomas Taylor charged	
✓ 47	03/03/06	Joseph Schlick	26	2300 Herkimer Street	Man asked victim to leave home, victim refused and was shot, Calvin Amos charged	
48	03/04/06	<u>Larry Hanes</u>	30	Jefferson Street and Montford Avenue	Shooting victim	
49	03/07/06	Curtis Lomax	22	1200 West North Avenue	Victim stabbed during flight	
X 50	03/13/06	Kacife Parker	28	1700 East Biddle Street	Shooting victim	
51	03/14/06	Klam Moody	37	1100 Webb Court	Stabbed during altercation, William Fuller charged	
X 52	03/18/06	Arron Godbolt	23	4600 Reisterstown Road	Shooting victim	
✓ 53	03/07/06	Gregory Rollins	41	500 Mosher Street	Shot after disagreement with girlfriend, Ietha Murdaugh charged	
54	03/21/06	Lee Tatum	73	400 East 25th Street	Stabbed by neighbor during argument, Dana White charged	
X 55	03/22/06	Lenard Hawkins	22	23 Lauretta Avenue	Victim shot while standing with friends	
56	Burned 03/22/06 added 08/13/06	Said Sawab	36	5500 Gwynn Oak Avenue	Found after a fire death caused by arson, Daymar Winbush and Calvin Wilkes charged	
X 57	03/22/06	Carlos Lewis	21	Cedley Street and Wenburn Avenue	Shooting victim	
58	03/23/06	Shawnisha Biggus	17	700 Woodbourne Avenue	Victim stabbed after being dragged into woods	
X 59	03/26/06	Darren Green	21	1200 Maple Leaf Court	Victim shot inside home	
✓ 60	S 07/24/03 d02/11/06	Corey Vines	33	?	Victim was shot, Marcus Burnett was tried and found not guilty	
✓ 61	03/30/06	Victor Richards	23	1300 Montford Avenue	Shooting victim, Jamal Winchester charged	
✓ 62	03/31/06	Ashley Harris	19	1800 North Charles Street	Shooting victim found in front of Club Choice, Oscar Adams charged	
X 63	03/31/06	Edward Jeter	28	900 Luzerne Avenue	Shooting victim found in home	
X 64	04/01/06	Raymond Brown	27	500 Mount Street	Shooting victim found on building's steps	
X 65	04/03/06	Aaron Mackey	18	600 Presstman Street	Shooting victim	
X 66	04/03/06	<u>Nehemiah Johnson</u>	30	4700 Harford Road	Shooting victim found outside Cameo Lounge	
X 67	04/06/06	<u>Noble Johnson</u>	28	500 Sheridan Avenue	Double homicide, victims found in parked vehicle	
X 68	04/06/06	Shelton Turner	21	500 Sheridan Avenue	Double homicide, victims found in parked vehicle	
X 69	04/06/06	Curtis Mitchell	19	2000 Longwood Street	Shooting victim found in home	
X 70	04/08/06	Andre Brantley	20	1800 Braddish Avenue	Shooting victim	
X 71	04/09/06	Darnell Butler	24	3500 Lucille Avenue	Shooting victim	
72	04/10/06	Deangelo Hunter	24	3300 Old Frederick Road	Stabbing victim found outside Top Shelf Lounge Steven Fleary charged	
73	04/11/06	Charles Sparrow	63	1200 Glyndon Avenue	Stabbing victim found in home, Ray Lucky Williams charged	
74	04/11/06	Kimberly Skyers	32	2600 Saint Benedict Street	Victim of blunt force trauma and stabbing Eric Hicks charged	
75	04/12/06	Randolph Terrance	19	1900 Division Street	Victim had multiple injuries, died, and then was set on fire	
X 76	04/13/06	Anthony Walker	24	2300 Callow Avenue	Double shooting	
X 77	04/15/06	Franklin Jones	27	3000 Lorena Avenue	Shooting victim found in crashed vehicle	
X 78	04/15/06	Raymond Reveley	14	2200 Roslyn Avenue	Shooting victim, shot by man who fired on a crowd of children	
✓ 79	04/15/06	Bryant Jones	42	1000 North Augusta Avenue	Victim shot after asking disrespectful person to leave his home, Jamal Charles charged	
80	04/18/06	Davon Curtis	25	2600 Loyola Southway	Victim stabbed during flight	
X 81	04/20/06	Robert Atkinson	47	1400 Kuper Street	Shooting victim found in home	
X 82	04/20/06	Vincent Paige	23	3400 Spelman Road	Shooting victim	
X 83	04/20/06	Larry Greene	32	1400 Poplar Grove Street	Shooting victim	
✓ 84	04/21/06	Jarrell Adams	20	2400 East Oliver Street	Shooting victim, Jamal Winchester charged	
X 85	04/23/06	Jennifer Morelock	25	700 Whitmore Avenue	Double homicide, victims shot in alley after talking to people on street, both victims from Westminster	

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Before
After

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X 86	04/23/06	Jason Wojcio	29	700 Whitmore Avenue	Double homicide, victims shot in alley after talking to people on street, both victims from Westminster
87	04/26/06	Kayah Jackson	14 mo.	1600 Mountmor Court	Baby died from blunt force trauma, Annette High charged
✓ 88	04/29/06	Shaheed Boyd	24	4100 Elderon Avenue	Shooting victim, Paul Barton charged
89	04/29/06	Mary Galston	34	4100 Hyden Court	Stabbing victim found in home
90	05/03/06	Donald Russell	64	1400 Dukeland Street	Victim strangled then dismembered, Octavius Savage charged
X 91	05/04/06	Kenneth Oakley	41	2300 East Preston Street	Victim shot in home by man chasing him
✓ 92	05/05/06	Pierre Alston	26	3600 Edmondson Avenue	Shooting victim found in home, Melvin Faulkner charged
X 93	05/05/06	Kevin Hodges	21	2200 Guilford Avenue	Shooting victim
94	05/07/06	Zion Clemmons	16 mo.	1300 Harlem Avenue	Baby died from blunt force trauma. Shardae Coles, a babysitter, charged
X 95	05/09/06	David Snow	24	2600 Quantico Avenue	Victim shot in parked vehicle
96	05/12/06	Jeremiah Pinder	56	3400 Round Road	Victim stabbed in home by girlfriend, Antoinette White charged
✓ 97	05/13/06	Justice Georlie	7	2200 Garrison Boulevard	Victim shot during robbery at the Divine Unity Hair Salon, Kemoni Sterrette charged
98	05/16/06	Aaron Wilson	23	1900 Eagle Street	Double homicide, evidence shows the victims shot each other
99	05/16/06	Steven Wallace	28	1901 Eagle Street	Double homicide, evidence shows the victims shot each other
X 100	05/17/06	Jamal Gwaltney	23	2500 Marbourne Avenue	Shooting victim
X 101	05/17/06	Darryl Lang	38	4500 Marble Hall Road	Victim shot during robbery
✓ 102	05/20/06	Lynn Lettley	28	1100 Dundalk Avenue	Victim shot at gas station, Victor Banks charged
X 103	05/22/06	Donte Johnson	18	6000 Amberwood Road	Victim shot in basement of apartment building
✓ 104	05/23/06	Whitney Wiley	19	Highgate Drive and West Northern Parkway	Shooting victim, Antoinne Devonn charged
X 105	05/24/06	Harry Gillespie	37	800 Glade Court	Victim shot in vehicle
✓ 106	05/25/06	Shawn Ruffin	33	Woodbourne Avenue	Victim shot in alley during fight, Larry McMillian charged
X 107	05/27/06	Darnell Spearman	32	1500 Federal Street	Shooting victim
108	05/28/06	Anuradha Ramasamy	26	300 West 31st Street	Allegedly killed by boyfriend, Thomas Ryan, who staged death as a suicide
X 109	05/28/06	Derrick Taylor	26	400 South Lehigh Street	Victim killed in home after argument about money, Jason Williams charged
X 110	05/28/06	Donye Blackston	22	200 South Broadway	Shooting victim found behind building
X 111	05/28/06	Odell Wagner	36	1700 Frederick Avenue	Shooting victim killed on street
X 112	05/29/06	Donte Hudson	28	700 Madela Street	Double shooting, both victims found on sidewalk
X 113	05/30/06	Mario Lomax	29	1400 East Federal Street	Shooting victim found on sidewalk
✓ 114	05/31/06	Ourmar Bah	28	7100 McClean Boulevard	Shooting victim was taxi driver killed in taxi, Damon Holmes charged
X 115	06/05/06	Wayne Mathews	25	300 North Guilford Avenue	Double shooting in the Club One parking lot
X 116	06/07/06	Marlo Hill	24	1800 Saratoga Street	Shooting victim
✓ 117	06/10/06	Antonio Alford	22	5500 Kaddon Avenue	Double shooting in second floor apartment, Duane Elkerson charged
X 118	06/11/06	<u>Larry Thompson</u>	30	1400 Alsquith Street	Shooting victim
✓ 119	06/11/06	Darryl Dupplins	24	1400 Pressman Street	Shooting victim found in street, Daymond Woodson charged
✓ 120	06/13/06	Cynthia Riley	56	5700 Simmonds Avenue	Shooting victim found in home, Raymond Davis charged
X 121	06/13/06	Kevin Sewell	20	2900 Towanda Avenue	Shooting victim found in street
X 122	06/14/06	Trey Branch	21	2700 East Preston Street	Shooting victim found in alley
X 123	06/14/06	Donald Lewis	23	900 East Preston Street	Shooting victim found in street
X 124	06/17/06	Blackburn John	28	2800 Ellcott Drive	Shooting victim found in street
X 125	06/18/06	Eric Knight	26	1600 Smailwood Avenue	Victim shot after discussion on street
✓ 126	06/19/06	Katiria Delacruz	24	1400 Angelsea Street	Victim shot by man who turned gun on himself but survived, Hector Manzueta charged
✓ 127	06/19/06	Ryan Mills	23	2300 Denison Street	Shooting victim, Devren Dashazo charged
✓ 128	06/20/06	Demetrius Spears	32	300 East 27th Street	Shooting victim found on sidewalk, George Jenkins charged
129	06/21/06	Anthony Rheubottom	25	2200 Christian Avenue	Stabbing victim. Intimate partner, Angela Davis charged
130	06/21/06	Ja-niya Williams	4	2900 Goodwood Avenue	Victim beaten and raped, Ronald Hilton charged
131	06/23/06	Russell Duckworth	33	4800 Pennington Avenue	Victim beaten and stabbed in home, Natasha Sarchiapone and Mark Brooks charged
X 132	06/24/06	Robert Lee King	37	600 Alsquith Street	Shooting victim found in vehicle
133	06/26/06	Thomas Batty	66	300 McMechen Street	Shooting victim killed by man with whom he had quarreled
✓ 134	07/01/06	Sheldon Anderson	27	2700 Edmondson Avenue	Shooting victim found in street, Stephon Wallace charged
X 135	07/02/06	Kareem Foster	21	600 Cherrycrest Road	Shooting victim found in street
136	07/03/06	Irvin Conley	24	4300 Glenmore Avenue	Double stabbing on porch of home
137	07/08/06	Elroy Long	20	400 Long Island Avenue	Victim died after being open fired on while in vehicle, Jerry Anderson charged
X 138	07/11/06	Darrell Robinson	21	Cathoun and	Shooting victim

Presstman Streets				
139 07/12/06	Gary Shipman	28	500 Sheridan Avenue	Stabbing victim found at gas station Sean Ramseur charged
✓ 140 07/12/06	Charles Harris	19	500 North Fremont Street	Shooting victim found between two vehicles, Perry Blackstone charged
✗ 141 07/13/06	Jeremy Jennings	20	1100 Argyle Street	Shooting victim found in home
✗ 142 07/14/06	Gurnie Edwards	46	1100 East Biddle Street	Shooting victim found in front of his home
143 07/14/06	Valerie Chambers	46	400 West Franklin Street	Decomposed stabbing victim found in apartment
✗ 144 07/14/06	Donna Mills	33	1900 North Monroe Street	Victim from Pennsylvania shot inside Macco's Lounge
✓ 145 07/15/06	Dion Williams	15	2700 East Monument Street	Shooting victim found 5 blocks from his home, Demetri Greer charged
✗ 146 07/16/06	Reubin McFadden	27	900 North Collington Street	Victim was chased and shot, found on sidewalk
✗ 147 07/16/06	Richard Smith	34	3600 Cottage Avenue	Shooting victim found under parked car
148 07/18/06	Rasheed Stevenson	17	400 Whitridge Avenue	Double stabbing, Demetries Sturgis charged
✗ 149 07/18/06	Christian Nunez	38	4800 Franklinton Road	Shooting victim found on road in Leakin Park
✗ 150 07/23/06	Bernadette Read	47	2500 Loyola Southway	Double homicide, shooting in home's basement
✗ 151 07/23/06	John Carter	49	2500 Loyola Southway	Double homicide, shooting in home's basement
✗ 152 07/23/06	Norman Handy	33	1900 Guilford Avenue	Shooting victim found in street
153 07/26/06	Adjeala Graves	32	5200 Wesley Avenue	Double homicide, victims found in car
154 07/26/06	Dante Watson	34	5200 Wesley Avenue	Double homicide, victims found in car
✗ 155 07/27/06	Douglas Pulley	27	1700 North Warwick Avenue	Victim shoot while being robbed by three men near his home
✗ 156 07/28/06	Terrel Griffin	18	4000 Park Heights Avenue	Shooting victim found on top of bicycle
✓ 157 07/28/06	Teon White	25	2100 Koko Lane	Shooting victim found in home, Jonathan Everett charged
✗ 158 07/29/06	Troy Odoms	23	700 Cooks Lane	Shooting victim found in street
✗ 159 07/29/06	Santini Stanfield	26	1000 Booth Street	Victim shot by suspect in vehicle
160 07/30/06	Irvin Harris	11	2900 Belair Road	Melvin Jones previously convicted pedophile and family friend charge with murder. Victim's mother, Shanda Harris, charged with reckless endangerment
161 Found 07/31/83 added 08/01/06	William Gibson	57	2200 East Pratt Street	Decomposed victim found in storage locker in apartment, ME rules homicide 23 years later, Dennis Wallace charged
✗ 162 08/01/06	Derron Gaines	33	800 Bethune Road	Shooting victim found in playground
✓ 163 08/01/06	Davon Hines	19	400 North Chester Street	Double shooting, victim found on sidewalk Brian Fitzgerald charged
✓ 164 08/03/06	Howard Jones	26	2600 Dulaney Street	Shooting victim found on sidewalk, Davon Pearson charged
✗ 165 08/03/06	Gerald Edison	30	2600 Evergreen Avenue	Shooting victim found in vehicle
✗ 166 08/06/06	Horace Fauntleroy	36	Edgecombe Circle North	Shooting victim found in street
✗ 167 08/06/06	Gregory Moore	40	4100 Rollins Avenue	Shooting victim
168 08/09/06	Cecil Saunders	27	3600 Pulaski Highway	Assault victim found in motel stairway, Donnell Williams charged
✗ 169 08/13/06	Juajuan Winfield	21	4900 Nelson Avenue	Shooting victim allegedly killed by suspect on scooter
✗ 170 08/14/06	Ryan Teel	23	400 Ilchester Avenue	Triple Shooting, Double homicide, victim found on porch
✗ 171 08/14/13	Rodinae Jones	16	400 Ilchester Avenue	Triple Shooting, Double homicide, victim found on porch
✗ 172 08/15/06	Harold Williams	27	2700 Clifton Avenue	Triple Shooting
173 08/19/06	Mary Page	63	200 North Culver Street	Victim found in home
✗ 174 08/20/06	Pepe Benn	26	1800 North Montford	Shooting victim
✗ 175 08/20/06	William Tillman	21	2800 Spaulding Avenue	Shooting victim
✗ 176 08/21/06	Kevin Sharpe	35	3700 Beahler Avenue	Shooting victim found in vehicle
✗ 177 08/25/06	Juilet Robinson	35	2500 Jefferson Street	Shooting victim
✗ 178 08/27/06	Damien Studivant	21	2800 Round Road	Double shooting
✗ 179 08/30/06	Rickie Tinsley	21	600 Pontiac Avenue	Victim shot while riding his bike
✓ 180 09/02/06	Darren Wilson	31	3500 Lucille Avenue	Shooting victim, Eddie Hawkins charged
✗ 181 09/03/06	Andre Dudley	24	800 West Lexington Street	Shooting victim found in vehicle
✓ 182 09/04/06	Michael Freeman	32	3400 Park Heights Avenue	Victim shot on his own porch, Zachary James charged
✗ 183 09/05/06	Lamont Moore	25	3300 Ambrose Avenue	Shooting victim
✗ 184 09/06/06	Antonio Brown	16	100 Diener Place	Victim shot in front of apartment complex
✗ 185 09/06/06	Derrick Miller	27	600 North Montford Avenue	Shooting victim
✓ 186 09/07/06	Darrell Artis	25	7100 McClean Boulevard	Victim shot during fight in parking lot, LaTosca McCullough, Tavon Tyner and Marquise Brown charged
187 09/08/06	Biafra Thomas	36	4800 Raymonn Avenue	Victim asphyxiated in her own home
✓ 188 09/10/06	Anthony Taylor Jr.	20	300 East 22nd Street	Double homicide, Victims shot during fight Eric Tate charged
189 09/10/06	Adrian Holiday	19	300 East 22nd Street	Double homicide, Victims shot during fight, Eric Tate charged
✗ 190 09/10/06	Steven King	19	3700 Eighth Street	Victim shot in home during robbery
✗ 191 09/11/06	George Young	23	1100 Cleveland Street	Shooting victim
✗ 192 09/14/06	Antonio Gilmore	38	601 Homestead Street	Shot during robbery at Blockbuster Video

✓ 193 09/15/06	David Galloway	19	2300 Norfolk Street	Shooting victim found behind public housing complex, Brayneil Gilchrist charged
✗ 194 09/17/06	Edward Curtis	17	3700 East Baltimore Street	Shooting victim
✗ 195 09/18/06	Floyd Cook	56	1600 North Fulton Street	Victim received fatal gunshot from stray bullet
✗ 196 09/18/06	Jamie Randall	30	2300 West Lanvale Street	Double homicide, victims found in vehicle
✗ 197 09/18/06	Reginald Rucker	32	2300 West Lanvale Street	Double homicide, victims found in vehicle
✗ 198 09/21/06	Devin Wright	26	700 Gold Street	Shooting victim
✓ 199 09/23/06	Cory Harrison	27	2000 Robb Street	Shooting victim, Derrick Wallace charged
✓ 200 09/25/06	Andrew Jackson	26	2300 Mount Royal Terrace	Shooting victim, Sharod Mattox charged
✗ 201 09/26/06	Davon Sampson	18	3300 St. Ambrose Avenue	Shooting victim
✓ 202 09/26/06	Janice Letmate	67	4000 Biddison Lane	Shooting victim, Devon Richardson charged
✗ 203 09/26/06	Lateef Chase	25	500 Parkin Street	Shooting victim found on bicycle
✓ 204 09/28/06	Sultan Matthews	19	1200 North Dukeland Street	Victim shot in home, Kevin Parker charged
205 09/28/06	Gary Nelson	47	1700 East 30th Street	Victim stabbed on porch of his own home
✗ 206 09/29/06	Lamont Brown	20	2700 Quantico Avenue	Victim shot while walking
✗ 207 09/30/06	Victor Council	43	1400 West Baltimore Street	Shooting victim
✗ 208 09/30/06	Jamelle Carter	18	2500 Oswego Avenue	Victim shot while standing with friends
209 09/30/06	Unidentified Person	?	?	City Paper failed to list one victim from the week of September 30 2006
✗ 210 10/02/06	Stuart Griffith	35	21 South Calvert Street	Victim shot after fight at Gossip's Club
✓ 211 10/02/06	Billy Horn	47	3800 Lyndale Avenue	Neighbor shot victim after disagreement Marvin Ferguson charged
✓ 212 10/02/06	Bernard Davis	16	1700 North Castle Street	Double shooting, Gerry Boatwright and Davon Gardner charged
✗ 213 10/04/06	Herbert Betz	30	St. Margaret and Jeffrey Streets	Victim shot during robbery
✗ 214 10/04/06	Sean Dill	32	1200 North Luzerne Avenue	Double shooting
✗ 215 10/07/06	Leonard Garrett	24	800 Winans Way	Shooting victim
✗ 216 10/09/06	Donnie Blanding	22	Lewiston and Gist Avenues	Shooting victim found in vehicle
✗ 217 10/12/06	Glenn Carlton	38	600 West Franklin Street	Victim shot in apartment
✗ 218 10/15/06	Antonio Hill	16	100 North Poppleton Street	Shooting victim
219 10/17/06	Marcus Rogers	26	1000 St. Paul Street	Victim was beaten and found after apartment fire Zukael Stephens charged
✗ 220 10/17/06	Cornett Robinson	16	2800 Carver Road	Shooting victim
221 10/22/06	Joel Bradley	39	700 Cumberland Street	Victim was beaten and may have been robbed Donovan White charged
✗ 222 10/23/06	Glenard Byrd	19	1000 North Bond Street	Shooting victim
✗ 223 10/25/06	Travis Wake	23	300 West 27th Street	Shooting victim
✗ 224 10/25/06	Donte Johnson	20	1500 Shields Place	Shooting victim found near his home
✗ 225 10/26/06	Leonard Brown	25	1400 North Milton Avenue	Shooting victim
✗ 226 10/27/06	Kevin Washington	28	1700 Ashburton Street	Shooting victim
✗ 227 10/28/06	Arnold Handy	30	2700 Tivoly Avenue	Victim shot in his home during robbery
228 D 09/12/06 a 10/31/06	Anthony Durso	2	1200 East Patapsco Avenue	Victim was beaten Medical Examiner ruled homicide
✓ 229 10/31/06	Gregory Welsh	32	6000 Marluth Avenue	Shooting victim found on his front porch after assault Kenneth Brown and Kenneth Megginson charged
✗ 230 10/31/06	Antonio Williams	32	Cator and Elkader Road	Double homicide Shooting
✗ 231 10/31/06	Jonathan Savage	35	Elkader and 41st Street	Double homicide Shooting
232 11/03/06	Gap Suh	61	400 West Mulberry Street	Victim stabbed after minor car accident
✗ 233 11/05/06	Justin Owens	23	4800 Melbourne Road	Shooting victim found outside in sleeping bag
234 11/07/06	Nicole Edmund	17	300 West North Avenue	Stabbing victim found under I-83 overpass Kendrick McCain and Lataye King charged
✗ 235 11/10/06	Donald Samuels	55	4500 Pennington Avenue	Shot inside pickup truck
✗ 236 11/11/06	Shawn Tiller	16	2500 East Hoffman Street	Shooting victim
✗ 237 11/11/06	Brian Pope	36	2100 Garrison Boulevard	Shooting victim found in home
✗ 238 11/17/06	Alfred Williams	26	Pennsylvania Avenue and Preston Street	Shooting victim found in street
			500 North Streeper	

X 239 11/19/06	Lamont Jackson	21	Street	Victim shot in doorway of his own home
✓ 240 11/19/06	Dennis O'Neil Bryant	38	Aiken Street and Hargest Lane	Victim shot in vehicle, Tavon Caldwell charged
✓ 241 11/21/06	Tereem Taylor	21	1700 West Saratoga Street	Shooting victim found on sidewalk, Kenneth Lathan and Jamal Lloyd charged
X 242 11/23/06	John Dowery	38	700 Bartlett Street	Double shooting, victim shot in Kozy Korner Bar
X 243 11/25/06	Shawn Reed	32	400 East 22nd Street	Shooting victim found in vehicle
244 11/26/06	Michael Griffin	43	Groveland Avenue and Dawson Blvd	Stabbing victim, Miguel Johnson charged
X 245 11/26/06	Bernard Simon	13	1200 Shellbanks Road	Triple shooting, three brothers shot in home
X 246 11/28/06	Andre Alexander	21	4300 Fairfax Avenue	Shooting victim
X 247 11/30/06	Dennis Talley	48	3800 Towanda Avenue	Shooting victim
248 12/01/06	Jason Sanders	17	1300 North Chester Street	Victim stabbed by brothers during flight, Jermaine Sanders charged
X 249 12/01/06	Hamel Hurley	25	1500 Shadyside Road	Victim shot during robbery behind his own home
X 250 12/02/06	Rassan Jones	20	300 West Lafayette Avenue	Shooting victim
X 251 12/05/06	Jamal Dailey	19	3700 Flowerton Avenue	Shooting victim found in alley
X 252 12/06/06	Travon Johnson	19	3400 Kenyon Avenue	Shooting victim
X 253 12/10/06	Guiliano Santos	17	Monument Street and Ellwood Avenue	Victim exited pickup truck after being shot
X 254 12/11/06	Theodore Caldwell	29	West North Avenue and North Mount Street	Shooting victim found on sidewalk
X 255 12/12/06	Steven Richey	41	3400 Clifftown Avenue	Shooting victim shot after discussion near his own vehicle
X 256 12/12/06	Joseph Simms	41	3900 Bonner Road	Shooting victim shot 1 block from his home
X 257 12/12/06	Keith Barney	30	4400 Haddon Avenue	Shooting victim found in parking lot
X 258 12/13/06	Ronald Stewart	29	4000 Belvedere Avenue	Shooting victim found in street
X 259 12/15/06	Christopher Whitfield	22	3800 Hanover Street	Shooting victim found on sidewalk
X 260 12/15/06	Kevin West	39	2800 Virginia Avenue	Shooting victim
X 261 12/16/06	Kurt Mallone	19	1300 McCullogh Street	Double shooting, victims shot in vehicle
X 262 12/16/06	James Williams	44	3700 Fairhaven Avenue	Victim shot during robbery in his own home
X 263 12/17/06	Kenneth Worrell	28	800 Bethune Road	Victim shot outside his own home, Darnell Edmonds convicted in 2009 of 2nd degree murder, Edmonds is a 2013 homicide victim
264 12/19/06	Annette Bradney	31	800 North Stricker Street	Victim beaten
X 265 12/20/06	Ralston Holder	52	5700 Hazlewood Circle	Victim shot in parking lot
X 266 12/20/06	Everton Holder	41	3300 East Fayette Street	Double shooting victim is the brother of Ralston Holder shot earlier at another location
X 267 12/21/06	Wesley Harris	22	2400 Winchester Street	Shooting victim found on lawn
S 04/26/06 d				
X 268 11/05/06 added 12/30/06	Larry Parks	37	3900 West Forest Park Avenue	Shooting victim
X 269 12/22/06	Erik Johnson	34	700 North Monroe Street	Shooting victim found near curb
270 12/23/06	Freddie Thornton	69	4300 Franklinton Road	Stabbing victim left in Leakin Park Timothy Izzard charged
X 271 12/24/06	Stephen Brunson	37	2900 Silver Hill Avenue	Shooting victim found on lawn
✓ 272 12/26/06	Jose Contreras	34	3200 East Baltimore Street	Double shooting men shot during robbery. Kevin Barnes, Kevin White and Lennard Jones charged
X 273 12/27/06	Willie Lewis	46	2500 Garrett Avenue	Double shooting, victim shot during home invasion
X 274 12/28/06	Ricardo Langford	38	2700 Kinsey Street	Shooting victim
X 275 12/30/06	Lebard Jones	30	North Avenue and Carey Street	Shooting victim

2006 Baltimore City Homicide Locations Mapped

Exhibit #4

These are just pages of case law to support my Claims since I don't have any of my discovery/files to support my claims in the form of evidence. Pages 1-3 of the federal nexus in United States v. Snyder (2017). 1 page to show 2241 is proper motion to file actual innocence claim. 1 page to show McGuiggin V. Perkins is correct case to support actual innocence claim. Pages 1-2 of Socha v. Boughton (2014) to support the equitable tolling claim of me never receive my discovery/files to file an adequate petition. The hurdles I faced were insurmountable and prejudice. Also, 3 other pages to support actual innocence and inability to access vital papers.

Your honor, I have very little education, I did not finish school. Attorney William B. Purpura had me tested for the capital murder trial and the psychologist testified that my IQ is 77 which is borderline Retarded and I do not think like normal people. Here is a copy.

Patrick Byers

U.S. v. Snyder (2017)

A. *Federal Witness Tampering Under 18 U.S.C. § 1512*

On appeal Snyder argues there is insufficient evidence to show a "reasonable likelihood" that Mars would have communicated with a federal officer if she had not been murdered. We review the sufficiency of the evidence by asking whether, "viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Resnick*, 823 F.3d at 893, citing *Jackson*, 443 U.S. at 319 (emphasis omitted).

The federal witness-tampering statute imposes a mandatory life sentence on "Whoever kills ... another person, with intent to ... prevent the communication by any person to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense." 18 U.S.C. § 1512(a)(1)(C) (emphasis added). The same sentence applies to a conspirator. § 1512(k). By specifying officer "of the United States," § 1512 requires showing a reasonable likelihood that the victim would have communicated with a *federal officer*, not a state or local officer. The statute does not require proof that the defendant knew the federal status of the officer or the underlying proceeding. See § 1512(g).

In *Fowler v. United States*, the Supreme Court addressed how § 1512 applies to a defendant who kills a victim to prevent her from speaking to law enforcement generally but not to federal officers in particular. 563 U.S. 668, 672, 131 S. Ct. 2045, 179 L. Ed. 2d 1099 (2011). In such cases, the Supreme Court instructed courts to consider the counterfactual world in which the victim is not murdered and to ask with whom she would have communicated. To establish the required federal nexus, the "Government must show a *reasonable likelihood* that, had, e.g., the victim communicated with law enforcement officers, at least one relevant communication would have been made to a federal law enforcement officer." *Id.* at 677. The government need not prove the federal nexus beyond a reasonable doubt, nor even by a preponderance of the evidence. *Id.* at 678. Rather the government must show that the likelihood of the victim communicating with a federal officer was "more than remote, outlandish, or simply hypothetical." *Id.*

Although this evidentiary standard is low, it is not toothless. In adopting the {865 F.3d 497} reasonable likelihood standard, *Fowler* specifically rejected an even lower "possibility standard" under which it would be enough if it was *possible* that the victim would have communicated with a federal officer. *Id.* at 676-77. The Court said this approach runs contrary to the language and federal scope of the statute: "because of the frequent overlap between state and federal crimes, the use of a standard based on the word 'possible' would transform a federally oriented statute into a statute that would deal with crimes, investigations, and witness tampering that, as a practical matter, are purely state in nature." *Id.* at 677. Moreover, the Court noted that because of the extensive overlap between state and federal crimes, the commission of a federal crime, without more, generally does not satisfy the reasonable likelihood standard. See *id.* at 676.

On appeal, Snyder argues that there is virtually no evidence that Mars would have communicated with a federal officer about the Circle K robbery. In the immediate aftermath of the Circle K robbery, only state and local officials investigated the crime. This is unsurprising, Snyder argues, because statistical evidence shows that robberies of this kind are rarely prosecuted in federal court. The government responds in several ways. Before assessing its response, we outline two separate paths the government can take to show the required federal nexus under § 1512: one path if the underlying crime would have been prosecuted in federal court, and a second if it would have been prosecuted in state court.

First, if the underlying crime (here, the Circle K robbery) would have been prosecuted in federal

~~court, then it is reasonably likely that the witness would have spoken with a federal officer during the course of that prosecution.~~ For instance, in 2015 the U.S. Attorney's Office for the Southern District of Indiana decided to prosecute in federal court all pharmacy robberies, which had spiked in the wake of the opioid addiction crisis. See Chris Davis, *U.S. Attorney: There Have Been Fewer Pharmacy Robberies in Indiana*, WIBC (May 25, 2017), . If a defendant murdered a witness under those circumstances, Fowler would likely be satisfied. The underlying crime (the pharmacy robbery) would have been prosecuted in federal court, and it is reasonably likely that the witness would have communicated with a federal officer during the course of that federal prosecution.

Second, even if the underlying crime would not have been prosecuted in federal court, the government can still satisfy § 1512 by showing a reasonable likelihood that the victim would have communicated with a federal officer who was assisting the state prosecution of the underlying crime. The district court relied on this approach when it denied Snyder's Rule 29 motions. On appeal, the government argues along both paths. *Bingo*

The government first maintains that the Circle K robbery would have been prosecuted in federal court because it involved three federal crimes. The government notes the "federal nature" of Snyder's crimes, and it identifies at least six other convenience store robberies that have been prosecuted in federal court in the Central District of Illinois since Snyder's robbery. The government also notes the "regularity with which both felon-in-possession and § 924(c) charges are brought in federal court."

This evidence falls short. Section 1512 is not satisfied simply because Snyder's underlying crimes amounted to federal offenses. *Fowler* expressly rejected {865 F.3d 498} that argument, which would have reached too far. See 563 U.S. at 676-77. Since there is extensive overlap between state and federal crimes, the fact that the Circle K robbery could be prosecuted under the Hobbs Act, without more, does not satisfy § 1512. We also agree with the district court that it is quite unlikely that this robbery and the associated firearm charges would have been prosecuted in federal court if there had been no murder. The six Hobbs Act robbery cases the government cites do not persuade us otherwise. The record contains data from the FBI's "Uniform Crime Reports," which show that hundreds of commercial robberies occurred in the Central District of Illinois during the same timeframe. If only six were prosecuted under the Hobbs Act, this number does not help but hurts the government's position.

The government also pursues the second path to satisfy § 1512, asserting that even if Snyder's robbery would have been prosecuted in state court, it is reasonably likely that Mars would have communicated with one of the federal officers assisting the Decatur Police. The Decatur deputy police chief testified that it "would be a very real possibility" that the Decatur Police would discuss an armed robbery with federal authorities. The Decatur Police Department has a dedicated space for the FBI, which is occupied by one full-time FBI agent and a Decatur Police detective who is also an FBI task force officer. In Snyder's case, the government notes, the FBI supported Decatur Police by unlocking a cellphone. In addition, Decatur Police asked the FBI to help clarify the image of one of the masked gunmen's tattoos, which was captured by the Circle K security camera.

This evidence is also insufficient. The cellphone that the FBI helped unlock was actually *Paige Mars'* cellphone. If Mars had not been murdered and had instead cooperated with law enforcement as a witness, there would have been no need to unlock her phone. More fundamentally, evidence that a federal officer assisted with cellphone forensics does not satisfy § 1512 as applied to the murder of an eyewitness. The statute requires a reasonable likelihood that the victim herself would have communicated with a federal officer. Technical support is not communication with a witness. Federal officers can assist state prosecutions in many ways, such as by providing information from the FBI's

DNA database, fingerprint analysis, cellphone forensics, etc. But evidence of such technical assistance does not show a reasonable likelihood that the eyewitness in question would have communicated with a federal officer.

The same analysis applies to the Decatur Police's request for FBI assistance to identify the tattoo captured by the Circle K security camera. This form of technical assistance would not likely have involved a federal officer communicating with a witness like Mars. That proved to be the case here. The FBI did nothing in response to the request by Decatur Police because another witness named Burwell came forward and identified Snyder. If the FBI would have supported the state prosecution by communicating with witnesses, it presumably would have communicated with Burwell. That did not happen. Whether proceeding on the first or second path, the government failed to offer evidence sufficient to show a reasonable likelihood that if Mars had not been murdered, she would have communicated with a federal law enforcement officer about the Circle K robbery.

Our holding fits comfortably along the spectrum of decisions by other circuits applying *Fowler's* "reasonable likelihood" standard to various forms of witness tampering {865 F.3d 499} under § 1512, from corrupt persuasion up to murder. The decisions upholding § 1512 convictions involved much stronger showings of a federal nexus than present here. See, e.g., *United States v. Veliz*, 800 F.3d 63, 73-75 (2d Cir. 2015) (defendant's "offenses were not 'purely state in nature'—he committed multiple related crimes across multiple states, with multiple accomplices," and at time of the witness tampering, defendant was already under federal investigation); *United States v. Smith*, 723 F.3d 510, 518 (4th Cir. 2013) (underlying crime involved "large scale gang activity and drug trafficking"); *United States v. Ramos-Cruz*, 667 F.3d 487, 497-98 (4th Cir. 2012) (federal task force was investigating defendant's large gang, and gang informants had already spoken with federal officers).¹

The federal nexus in this case is weak even when compared to other § 1512 decisions in favor of defendants. See, e.g., *United States v. Chafin*, 808 F.3d 1263, 1273-75 (11th Cir. 2015) (reversing § 1512 conviction for insufficient evidence of federal nexus where sheriff embezzled more than \$10,000 in federal funds); *United States v. Tyler*, 732 F.3d 241, 252 (3d Cir. 2013) (reversing denial of post-conviction petition by defendant who helped murder informant who was cooperating with state task force that regularly referred cases to federal DEA). In *Fowler* itself, the defendant murdered a police officer who learned Fowler was preparing to rob a bank. See 563 U.S. at 670. Murdering a police officer in connection with a bank robbery is much more likely to be prosecuted in federal court than the Circle K robbery at issue here.²

Taken together, the evidence does not support a reasonable likelihood that Mars would have communicated with a federal officer if she had not been murdered. Without the murder, it is unlikely the Circle K robbery would have been prosecuted in federal court. And although federal officers may have assisted with a state prosecution, there is insufficient evidence to find a reasonable likelihood that any federal officer would have assisted in a capacity where he would have communicated with eyewitnesses.

3rd Cir

On September 12, 2013, Bruce filed a *pro se* petition for a writ of habeas corpus under 28 U.S.C. § 2241 in the United States District Court for the Middle District of Pennsylvania, the district of his confinement. Citing *Fowler*, Bruce contended that he is actually innocent of his two convictions for witness tampering murder.

The Magistrate Judge initially recommended that Bruce's petition be dismissed for lack of jurisdiction due to {2017 U.S. App. LEXIS 9} his failure to satisfy the gatekeeping requirements of 28 U.S.C. § 2255(e)'s saving clause. The following day, however, this Court decided *United States v. Tyler*, 732 F.3d 241 (3d Cir. 2013), which permitted a prisoner who had filed successive § 2255 motions to pursue a *Fowler*-based actual innocence claim under § 2241. In the wake of *Tyler*, the District Court declined to adopt the Magistrate Judge's recommendation, and remanded the matter for further proceedings.

On remand, the Magistrate Judge found that jurisdiction under § 2241 was proper, but recommended that Bruce's petition be denied. *Bruce v. Thomas*, 2014 U.S. Dist. LEXIS 147975, 2014 WL 5242407 (M.D. Pa. June 20, 2014). The Magistrate Judge concluded that Bruce had failed to show that it was more likely than not that no reasonable juror would have convicted him of witness tampering murder based on *Fowler*'s interpretation of 18 U.S.C. § 1512(a)(1)(C). 2014 U.S. Dist. LEXIS 147975, [WL] at *10. The District Court adopted the Magistrate Judge's report and recommendation in its entirety and denied Bruce's petition. *Bruce v. Thomas*, 2014 U.S. Dist. LEXIS 146770, 2014 WL 5242409 (M.D. Pa. Oct. 15, 2014).

by a jury. Because the petitioner in *Bousley* pled guilty, all evidence of innocence was "new" evidence—there was no initial trial at which "old" evidence was presented. See *House*, 547 U.S. at 538 (noting that "a *Schlup* claim involves evidence the trial jury did not have before it"); *Bousley*, 523 U.S. at 630 (Scalia, J., dissenting) (noting the problems with applying the "new evidence" requirement of the actual-innocence exception to cases involving pleas). Thus, the term "new evidence" {2015 U.S. Dist. LEXIS 6} did not make sense in the plea context, but the Court did require the district court to examine "all the evidence" and permitted the parties to "present any admissible evidence" on remand. *Bousley*, 523 U.S. at 623-24.

Case law subsequent to *Bousley* supports this conclusion. Since *Bousley*, the Supreme Court has reiterated the requirement that petitioner show new evidence of innocence in order to take advantage of the actual-innocence exception without qualifying that the new evidence requirement does not apply when certain underlying constitutional claims, like insufficient evidence, are asserted. See, e.g., *McQuiggin*, 133 S. Ct. at 1935 ("To invoke the miscarriage of justice exception, . . . a petitioner must show that it is more likely than not that no reasonable juror would have convicted him in the light of the new evidence." (internal quotations omitted)); *House*, 547 U.S. at 537 ("To be credible a gateway claim requires new reliable evidence." (internal quotations omitted)). Since *Bousley*, the Seventh Circuit has also consistently required a showing of new evidence in order to take advantage of the actual-innocence exception. See *McDowell v. Lemke*, 737 F.3d 476, 483 (7th Cir. 2013) ("[P]roof [of actual innocence] must take the form of 'new reliable evidence.'"); *Gomez v. Jaimet*, 350 F.3d 673, 680 (7th Cir. 2003) ("[M]erely putting a different spin on evidence that was presented {2015 U.S. Dist. LEXIS 7} to the jury does not satisfy the *Schlup* requirements, but if a petitioner comes forth with evidence that was genuinely not presented to the trier of fact then no bar exists to the habeas court evaluating whether the evidence is strong enough to establish the petitioner's actual innocence claim."); see also *U.S. v. Wade*, 587 Fed. Appx. 200, 201 (5th Cir. 2014) (holding that petitioner, who brought an insufficient evidence claim, failed to show new evidence of innocence and thus could not invoke the actual-innocence exception); *Whitworth v. Price*, 90 Fed. Appx. 458, 460 (6th Cir. 2004) (same).

In this case, petitioner was convicted by a jury after a trial; therefore, he must produce new evidence that was not considered by the jury in order for the actual-innocence exception to apply.

Petitioner contends that even if new evidence is required, he has shown new evidence to satisfy the *Schlup* standard. Specifically, he argues that his trial counsel was ineffective because he focused on an alibi defense and failed to present the jury with alternative defenses, and that these alternative defenses constitute new evidence which the jury did not consider. In requiring new evidence of innocence, the Supreme Court gave examples of the type of "new reliable evidence" it had in mind, listing "exculpatory scientific {2015 U.S. Dist. LEXIS 8} evidence, trustworthy eyewitness accounts, or critical physical evidence." *Schlup*, 513 U.S. at 324. Petitioner's showing of "new evidence" does not meet this standard. Alternate defenses themselves are not evidence. See, e.g., Seventh Circuit Federal Civil Jury Instructions § 1.04 (2005) ("Evidence" consists of "testimony of the witnesses, the exhibits admitted into evidence, and stipulations."). Nor is the claim that petitioner's counsel was ineffective for failing to raise those alternate defenses. By asking me to consider alternate defenses, petitioner does not present new evidence; rather, he asks me to review evidence admitted at trial in a new light. Without a showing of reliable new evidence, petitioner cannot invoke the actual innocence exception to overcome the time bar and procedural default. Thus, I will dismiss petitioner's claims as time-barred and procedurally defaulted.

Socha v. Baughton (Court)

SCANNED

JUN 04 2019

Poor representation by an attorney calls for a more nuanced appraisal. Defects in performance, whether through the attorney's own fault or attributable to extenuating circumstances, do not inevitably support equitable tolling, but they are relevant. The Supreme Court has identified some types of errors (such as {2014 U.S. App. LEXIS 24} as miscalculation of a deadline) that do not warrant relief. It calls them "garden variety" claims of excusable neglect, meaning that these errors are too common to be called "extraordinary." *Holland*, 560 U.S. at 651-52 (citing *Irwin v. Dep't of Veterans Affairs*, 498 U.S. 89, 96, 111 S. Ct. 453, 112 L. Ed. 2d 435 (1990)). An attorney's incapacity is also not necessarily a ground for equitable tolling. *Modrowski v. Mote*, 322 F.3d 965, 968 (7th Cir. 2003). The important thing is the full picture with which an inmate is contending. Here, it is {763 F.3d 686} notable that Sommers was not Socha's attorney for the period relevant to our inquiry; his representation terminated with the conclusion of Socha's direct appeal, and thus he had no legal authority to act on Socha's behalf. His failure to turn over Socha's file, then, was not "garden variety" neglect of a client, but rather a rarer instance where the materials necessary to conducting one's legal affairs were being unjustifiably held by a person who had no ability to use them. (Indeed, Sommers was on thin ice ethically speaking, given Wisconsin Rule of Professional Conduct 1.16(d), applicable in the Eastern District of Wisconsin, which requires a lawyer who has terminated representation to take reasonable steps to protect a client's interests, including specifically surrendering papers and property to the client.)

It {2014 U.S. App. LEXIS 25} does not matter that one could look at each of the circumstances encountered by Socha in isolation and decide that none by itself required equitable tolling. The mistake made by the district court and the state was to conceive of the equitable tolling inquiry as the search for a single trump card, rather than an evaluation of the entire hand that the petitioner was dealt. In *Holland*, the Supreme Court disapproved the use of such a single-minded approach. It wrote instead that a person's case is to be considered using a "flexible" standard that encompasses all of the circumstances that he faced and the cumulative effect of those circumstances. Similar cases may shed some light on the claim, but "courts exercise judgment in light of prior precedent ... with awareness of the fact that specific circumstances, often hard to predict in advance, could warrant special treatment in an appropriate case." *Holland*, 560 U.S. at 650.

The hurdles Socha faced were nearly insurmountable, if he hoped by July 16 to create an adequate petition that met the criteria of Rule 2(c) of the habeas corpus rules. For nearly 90% of his allotted one year, Socha was without access to any of the documents pertaining to his legal proceedings through no fault of his own. He {2014 U.S. App. LEXIS 26} made repeated requests for the documents both to his former lawyer and eventually to that lawyer's superior. He tried to secure new counsel, who would have secured the documents for him. The district court faulted Socha for taking no alternative measures while his file languished in the possession of his former attorney, but this conclusion is misguided. The state concedes in its brief that Socha began seeking alternative avenues to file for federal relief while he was still without his file; for example, he worked with inmate Wagner to obtain some documents directly from the state court. Even if he had not done so, it is unclear what more Socha could have done without access to his file. Even the most seasoned attorneys do not, and should not, draft motions, memoranda, or briefs without access to the basic files underlying the actions. They likely would face discipline if they attempted to reconstruct the case from memory alone. To expect Socha to have a photographic memory permitting him to write a petition without his file is unrealistic.

After Socha finally received his file, new obstacles stood in his way: limited library access and the rapid expiration of time. Even ignoring his {2014 U.S. App. LEXIS 27} allegations about the severe limitations on his library access and limiting our consideration to the uncontroverted facts (eighty minutes of access every two weeks, two computers for 250 inmates, and the inability to take legal

Still never
received my discovery
to this day

A07CASES

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Still i don't have my discovery or anything
pertaining to my case. I am again forced to
file a petition without any evidence from my
files that would no doubt support my claims.

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materials back to his cell), it still would have been nearly impossible for Socha to review the disorganized file, gather background legal materials, and craft a meaningful petition before the deadline. (The state tells us that Socha was not in segregation^(763 F.3d 687) for much of the year, but the record shows that he was in segregation for the entire period between the receipt of his files and the filing deadline.) At 80 minutes every other week, the most Socha could have gotten was about four hours of library time in the 40 days he had before his petition was due (assuming that he had three sessions over five weeks, at 80 minutes each). He had little to no opportunity to work with his materials in his cell.

A07CASES

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{825 F.3d 350} The district court recognized that {2016 U.S. App. LEXIS 3} the deadline in § 2244(d) is subject to equitable tolling if "extraordinary circumstances" prevent timely filing. See *Holland v. Florida*, 560 U.S. 631, 649, 130 S. Ct. 2549, 177 L. Ed. 2d 130 (2010); *Pace v. DiGuglielmo*, 544 U.S. 408, 418, 125 S. Ct. 1807, 161 L. Ed. 2d 669 (2005). Abandonment by counsel is one potentially extenuating circumstance, see *Maples v. Thomas*, 565 U.S. 266, 132 S. Ct. 912, 181 L. Ed. 2d 807 (2012), and inability to access vital papers is another, see *Socha v. Boughton*, 763 F.3d 674 (7th Cir. 2014); *Estremera v. United States*, 724 F.3d 773, 777 (7th Cir. 2013). The Supreme Court observed in *Christeson v. Roper*, 135 S. Ct. 891, 190 L. Ed. 2d 763 (2015), that a prisoner's mental disability in conjunction with abandonment by counsel may justify the appointment of new counsel to explore the question whether the disability tolls the period of limitations. Nonetheless the district court denied Schmid's petition as untimely. 2014 U.S. Dist. LEXIS 85571 (S.D. Ind. June 24, 2014). The judge stated that Schmid had failed to explain which particular documents she needed in order to file a petition under § 2254 or why she needed them. With respect to Schmid's claim of mental disability, the court said nothing at all.

We must assume for the purpose of this appeal that Schmid is afflicted by some mental disability—perhaps schizophrenic delusions (her defense at trial), perhaps post-traumatic stress disorder, perhaps both, or perhaps something else. Counsel representing Indiana was unable to tell us at oral argument what a verdict of "guilty but mentally ill" means under that state's practice. But the fact that Schmid has *some* kind {2016 U.S. App. LEXIS 4} of mental problem—her substantive constitutional argument is that she was not competent to stand trial in the first place—colors everything else in the case. Schmid could not explain to the district judge's satisfaction either the nature of her disability (and how it impeded timely filing) or why she needed the papers that former counsel did not turn over until October 2013. Yet a mental disability might itself prevent an unrepresented prisoner from elucidating such matters.

ACTUAL INNOCENCE

A credible showing of "actual innocence" may allow a prisoner to pursue his constitutional claims on the merits notwithstanding the existence of a procedural bar to relief. *McQuiggin v. Perkins*, 569 U.S. 383, 133 S. Ct. 1924, 1931, 185 L. Ed. 2d 1010 (2013). "This rule, or fundamental miscarriage of justice exception, is grounded in the 'equitable discretion' of habeas courts to see that federal constitutional errors do not result in the incarceration of innocent persons." *Id.* (quoting *Herrera v. Collins*, 506 U.S. 390, 404, 113 S. Ct. 853, 122 L. Ed. 2d 203 (1993)). A habeas petitioner, who seeks to surmount a procedural default through a showing of "actual innocence" must support his allegations with "new, reliable evidence" that was not presented in the underlying proceedings and must show that it was more likely than not that, in light of the new evidence, (2018 U.S. Dist. LEXIS 5) no fact finder, acting reasonably, would have found the petitioner guilty beyond a reasonable doubt. See *Schlup v. Delo*, 513 U.S. 298, 326-27, 115 S. Ct. 851, 130 L. Ed. 2d 808 (1995); see also *House v. Bell*, 547 U.S. 518, 126 S. Ct. 2064, 165 L. Ed. 2d 1 (2006) (discussing at length the evidence presented by the petitioner in support of an **actual-innocence exception** to the doctrine of procedural default). "Actual innocence" in this context refers to factual innocence and not mere legal sufficiency. *Bousley v. United States*, 523 U.S. 614, 623-624, 118 S. Ct. 1604, 140 L. Ed. 2d 828 (1998).

The Seventh Circuit has recognized that "[a]bandonment by counsel" can constitute one of those "extraordinary circumstances" that can stand in a petitioner's way and prevent him from timely filing his petition. Schmid v. McCauley, 825 F.3d 348, 350 (7th Cir. 2016) (citing Maples v. Thomas, 565 U.S. 266, 132 S. Ct. 912, 181 L. Ed. 2d 807 (2012), in which the Supreme Court concluded that the petitioner did not have functioning counsel during the pendency of his state post-conviction motion, because two of his lawyers left their law firm while the petition was pending, without telling him, and the local counsel agreed to appear only to move{2018 U.S. Dist. LEXIS 28} the other two lawyers into the court *pro hac vice*). The Seventh Circuit also has acknowledge that "inability to access vital papers" can constitute such an "extraordinary circumstance." Id. (citing Socha, 763 F.3d 674), in which the Seventh Circuit found that a petitioner's continual and fruitless efforts to get his legal documents from his lawyer supported equitable tolling).

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